

**A Political History of
Tasmanian Local Government:
Seeking Explanations for Decline**

by

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the requirements for the degree of
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(14 July, 2016)

ABSTRACT

Keywords: local government, Tasmania, interpretive theory, tradition, dilemma

Reforming local government in Tasmania has a varied history of success since its introduction in the early nineteenth century. Failures to meet State government desired economic, environmental and social policy changes have created poor perceptions of local government capacity and generated continual demands for institutional reform such as amalgamation. Large scale boundary reforms have a varied history of resistance and success with explanations for this focused on institutional responses.

This thesis reverses the policy gaze by looking at the ideas and beliefs that people bring to their local government practice. Drawing on the body of interpretive theory work of Bevir and Rhodes, a qualitative approach looks for evidence of ideas and beliefs that have persisted over time and which people bring to local government practice. It analyses historical and policy materials to derive sets of beliefs and ideas (as “traditions”) which have persisted over time in informing practice and the reaction of people to challenges (“dilemmas”).

Three traditions (localism, voluntarism, representation) are proposed from English local government practice over its long history. Analysis of historical and policy materials since colonisation concludes the ideas and beliefs people brought to Tasmania were largely located in the period *prior* to the second English 19th century period of municipal reform. Tasmania’s geography and its social and economic (largely agricultural) history contributed to the longevity of pre-secondary period English traditions and practices. Some ideas and beliefs are persistent today however others are now in decline at varying rates across existing municipal areas.

By providing a groundbreaking understanding and analysis of Tasmania’s local government this thesis argues the need for understanding the ideas and beliefs that still drive local government practice today in any reform process. It provides fertile ground for further research using this approach.

ACKNOWLEDGEMENTS

This impetus for this thesis comes as a local government practitioner attempting to come to grips with a failure to understand why Tasmanian local government practitioners behave in what seems an irrational matter when responding to rational reform such as amalgamation proposals (comparing the events of 1993 to 1997, for example).

Professor Rod Rhodes' approach to exploring politics and public policy via his development of interpretive theory provided an alternative avenue to consider this problem. The penny dropped during a seminar he gave at UTAS. His kind agreement to initially supervise was much appreciated for the good advice and access to his books and papers. I was very sorry he had to return back home to the United Kingdom half way through. I cannot thank him enough for shifting my gaze from institutions to people to see where gaps in understanding impact on making good policy.

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I hope all who read this begin to see public policy with different possibilities.

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CHAPTER 1: INTRODUCTION TO THE THESIS

History, science, scholarship; the art of extracting the truth from unreliable witnesses. Nine times out of ten, the best you can hope to do is make a case that convinces on the balance of probabilities your jury – fellow-scholars, minded and motivated just like you – will be persuaded by the most plausible argument, the most probable version. Thus we create a model of the past governed by common sense, rational thought, considered actions, reasonable motives. Now think about the decisions you’ve made and some of the things you’ve done over the years.¹

Every generation writes its own history.²

During Australia’s colonial era, introduced British local government ideas and institutions were the foundation of the development of the island now known as the State of Tasmania. In various statutory forms, these institutions have undertaken significant public activities, flourishing during the period of weak central colonial government in the second half of the 19th century.

At Federation, writers of the Australian Constitution relegated local government to be a responsibility of the federated States. It failed to gain constitutional recognition as a separate tier of government in the new Federal system then and to date, does so now. The institutions of local government have since continued to operate under State government legislative controls.

Institutional reform as a response to changes in society, technology, economy, and demographics enables government to respond to new demands from their constituencies, albeit often lagging behind with catch-up responses. To achieve desirable outcomes, the form and governance arrangements of institutions often need to change to meet new policy demands. Central governments use amalgamation as a local government reform tool to consolidate municipal areas and re-align the functions of local government on the basis of demanding more efficient and effective institutions to suit their central policy demands.

¹ K.J. Parker, “Let maps to others”, *Subterranean Magazine* (Summer 2012)

² Manning Clark, “Foreword” in *A New Britannia*, Humphrey McQueen (Penguin Books, 1970)

In Tasmania since 1901, there have only been two successful amalgamation periods (1904-06 and 1990-1993). Other attempts by the State government have either failed outright, or only achieved incremental changes or have required direct legislative intervention. Whilst the 1906 amalgamations succeeded in rationalising the number, geographical boundaries and functions of institutions, it took until the 1990-1993 amalgamations for a significant modernisation program to be commenced. Since 1993, the State government has encountered continued resistance to further amalgamation and other consolidation efforts from local government participants. This includes a current request for local councils to consider further amalgamations to achieve more efficiencies and effective processes to align council activities with State government policy objectives.³ *Why then, is there a resistance to such reforms of Tasmania's local government sector and what is the cause of this? Are we seeing a decline in the ideas and beliefs that created local government in the first place?*

A 2015 presentation to Tasmanian Councils by the State Minister asking councils to undertake voluntary amalgamations listed the following issues:

- 14 councils have had an average operating deficit for the 7-year period between 2007-08 and 2013-14 ranging up to \$4.6 million.
- Over two thirds of councils are not investing enough in maintaining their assets.
- Nearly half of all councils are not adequately maintaining their road system.
- Councils' net financial assets have declined over the last 3 years by 27% or \$45.5 million.⁴

For the State government there is a strong desire to “improve the efficiency and effectiveness of local government for the benefit of ratepayers”, noting at the same time a newspaper poll averaging 50 percent support for forced local government mergers.⁵ Given these problems would it not be sensible for elected local government practitioners to follow the policy prescriptions of the State government? Rationality indicates reform of local government institutions into larger entities as a

³ The problems of this focus are highlighted in the key findings published in 2014 by C. Aulich, G. Sansom and P. McKinlay, “A Fresh Look at Municipal Consolidation in Australia”, *Local Government Studies*, 40, no. 1 (2014): 2, 13-14

⁴ Tasmania, Local Government Division, “Minister Gutwein’s PowerPoint Presentation for Regional Meetings” at http://www.dpac.tas.gov.au/_data/assets/pdf_file/0008/248246/Peter_Gutwein,_MP,_Minister_for_Planning_and_Local_Government_PowerPoint_Presentation_at_Voluntary_Council_Amalgamations_Regional_Meetings_Feb_2015.pdf Accessed 27 November, 2015

⁵ “Voters call for get tough on councils”, *The Mercury*, 14 June 2015:2

valid approach in the best interests of the people local councils serve. However reform proposals continue to be largely resisted by elected people in local government who either reject them outright or respond with counter proposals that they believe are in the best interests of local government and their communities.

By reviewing the written administrative history and media reports of amalgamation attempts in Tasmania, it is clear that unilateral attempts at amalgamation rate little success. It is only when State and local governments collaborate to arrive at a consensus that meaningful amalgamation without political backlash at the polls has resulted (1904-1906 and 1990-1993). In trying to determine why amalgamation and various other reform options are so difficult to implement, the research reveals a conflict between State demands for efficiency and effectiveness with what local government people believe to be the best means of addressing the local concerns of their communities and their best means of local representation and participation.

The first line of inquiry is to understand what local government means in the Tasmanian context. Institutional analyses of Australia's local government concern themselves with the need to reform local government institutions and processes. Local government is depicted as financially problematic and challenged in meeting the administrative demands of modern local government. Yet elected local government people mostly continue to defend the importance of local government claiming it is closest to the people and a valid tier in the Australian Federal system of government.

Reviewing local government literature, the politics of local government reform during the late eighteenth and early nineteenth century in Britain appear to be the most common starting point for consideration of what local government should be. The ideas of efficiency, effectiveness, accountability and representation are understood through the series of reforms of local institutions by a central government that resulted in a distinctive British form of local government by the twentieth century. Municipal reforms of this period were aimed at redressing the problems created through the industrialisation of the nation's economy and the growth of towns and cities. Population movements from rural to urban areas were caused by the breakdown of rural and craft employment through the innovations of the Agricultural and Industrial Revolutions. The reaction to the problems of strong urban development led to a period of reform marked by legislative changes in 1835

abolishing the old corporations and continuing into the twentieth century.⁶ The modernising ideas from the second period of industrial urbanisation and municipal development that focused on the cities and industrialised towns took a longer period of time to be realised in Tasmania, particularly given the regional, rather than urban, patterns of development on the island that did not occur until middle to late twentieth century, and the impact of periods of economic downturn.⁷ Nesting Tasmania's local government within this understanding provides for a deal of confusion in finding the relevance for what Tasmania's local government means or a pattern of development, until well into the twentieth century.

By looking further back, researching the literature finds that local government in England was challenged through two great reform periods. The first was in the sixteenth century, the second in the nineteenth. The first reform period arose through the abolition of monasteries with the introduction of Poor Laws addressing the needs of a strongly agricultural society dominated by peers and gentry. The institutions of local government were dominated by men of property for whom its "unfettered accumulation of money, goods and land" was the *raison d'être* of a civil society little concerned with peace, justice or charity for the lowest classes.⁸ Such institutions were concerned with local issues only and property was a qualifying factor in voting. Van Diemen's Land offered significant opportunities for accumulation of property through a poorly regulated system of land grants.⁹ If free settlers were drawn from a population steeped in the practices of a rural, hierarchical England and familiar with the local government institutions that existed *prior* to the second period of reform, would it be unreasonable to argue it was this style of local government that first appeared in the colony and the values that underpinned it? As part of the evidence, when Lieutenant Governor (hereinafter "Lt-Governor") Arthur wanted to introduce

⁶ F.A. Bland, "Is there a future for local government?" *Journal of the Institute of Public Administration*, 5, no. 4 New Series (December 1946): 212. See also E.P. Hennock, *Fit and Proper Persons: Ideal and Reality in Nineteenth-Century Urban Government*, (London: Edward Arnold [Publishers] Ltd, 1973), 2-3

⁷ See Henry Reynolds, "Regionalism in Nineteenth Century Tasmania", *Tasmanian Historical Research Association Papers and Proceedings*, 17, no. 1 (July 1969): 14-28: See also F.D. Cumbræ-Stewart, "The English Background", Chapter 2, in K.R. von Stieglitz, *A History of Local Government in Tasmania: From the earliest settlement of Van Diemen's Land to the Present Time*, (Launceston: Telegraph Printery Pty Ltd, 1958), 39

⁸ Douglas Hay, "Property, Authority and the Criminal Law" in *Albion's Fatal Tree. Crime and Society in Eighteenth-Century England*, ed. Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson and Cal Winslow, 18-19 (London: Penguin Books, 1975)

⁹ James Boyce, *Van Diemen's Land*, (Melbourne: Black Inc, 2008), 148-150

local government in Hobart Town, the prominent settlers of the day suggested a corporation that would not have been out of place in England prior to the second reform period (see Appendix A).

The reform politics of industrial urban towns in Britain seem a long way from a distant colony that took fifty three years to achieve self-government. What ideas and beliefs then underpinned the development of local government once colonial State status was achieved? Given the timing, the pattern and pace of settlement and institutional development, why presume the ideas and beliefs of the second reform period were those held by settlers who formed local government institutions? Would it not also be unreasonable to argue the ideas and beliefs of the first period persisted when local government was formally instituted outside Hobart and Launceston in 1858? Other than roads trusts, local government was very slowly taken up post-1858, and only then with the carrot of control over local policing. It is proposed then to explore whether it is the persistence of ideas and beliefs of local government from the first period as the possible causes for resistance to reform. Are there particular ideas and beliefs that have persisted? To what extent have local government governance practices accommodated the dilemmas posed by the ideas and beliefs underpinning the second period of municipalisation and the increasing centralising tendencies of Tasmania's State government?

Investigating this problem using institutional approaches has the key difficulty that any explanations for political behaviour centre on the institutions of local government, not the people involved with them. Any facts speak for the institutions. This suggests that the use of institutional policy approaches to understanding the problem of resistance to reform is limited in how it can provide a full response.

By reversing the focus from institutions to people using an interpretive approach, the ideas and beliefs that people bring to local government and what they mean is revealed. When ideas and beliefs persist over time and are passed on, as *traditions* of local government, they influence local government practice. Contending ideas and beliefs, as *dilemmas*, challenge the way local government is practiced.

A survey of written materials on local government leads to a re-consideration of the development and pattern of local government reform in Tasmania. By reviewing what people say, it reveals what matters to people about local government compared

to what matters to those seeking reforms. Drawing on what matters to elected people in local government, and refocusing their ideas and beliefs through an interpretive lens suggests three traditions drawn from the research relevant to English and Tasmanian local government practice (localism, voluntarism and representation).

Ideas and beliefs surrounding local identity can be expressed as a local government tradition of localism. Voluntarism is concerned with local government public office. Representation in this context is concerned with who has the choice to participate.

The evidence for each tradition and its persistence and development in the face of challenges is explored through written sources and a qualitative analysis of interviews with contemporary local government leaders. The choice of Mayors reflects their role as spokespersons for their communities and therefore most likely to have their words recorded, so ensuring consistency with the historical record. There is an assumption that having been directly elected by their communities, they will most likely best express ideas and beliefs that reflect their communities. It is their spoken words that will be analysed for any evidence in recent responses to reform demands by the State government for the persistence of identified traditions.

In coming to any conclusions on findings, this thesis will also consider whether there is a larger meaning to local government that gets missed when only considering the most effective way to deliver services at the most efficient cost. If the focus on institutional arrangements ignores the social importance of local councils in supporting their communities, an interpretive approach may well be a useful policy tool in resolving some of the tension between central government demands for efficiency and effectiveness and local councils' concerns for doing the best by their communities.

Why “political” and “decline” in the title?

The thesis title includes the word “political” to deliberately indicate this is not a narrow institutional account of local government history. At the same time it seeks to signpost the shared ideas and beliefs of the people that are revealed through an interpretive approach. “Political” draws on the “politikós” of the ancient Greek city “polis” and in this instance broadly links the ideas of people engaging in the civil

administration of a community where membership confers protection, benefits and cultural identity.¹⁰ In short, this thesis is primarily about people, not institutions.

The thesis title also includes the word “decline” deliberately to expose for debate assumptions and perceptions of beliefs and values, and where validity for these is posited. “Decline” can be explored through the strength of ideas in response to dilemmas. For example, how have ideas of universal suffrage affected ideas of representation in local government? If there is the assumption that local government is all about management of property, that access to public office should be tied to property ownership, how can we view a shift from local elected government to unelected statutory authorities? Or how can those who do rent but do not own property in a locality be still able to hold local government office and have the right to equal representation? Have changes in technology and population created conditions where ideas of what the “local” once meant in local government are challenged? Is local government in effect a policy battleground where old ideas present in 19th century Tasmania no longer have relevance in the 21st century and are in decline? What happens when ideas and beliefs of localism are challenged by centralism, where property-based access to public office and voting has been replaced by universal suffrage and wider concerns of community involvement in decision making, and where egalitarianism and non-elected statutory bodies re-invent ideas of representation? In short, is the idea of local government in decline overall in Australia’s Federation and can this be observed through changes in local government traditions? Or is it that we are in a period of the final decline of the ideas of English local government in Tasmania, where changes in local government practices are sweeping away its final vestiges?

Thesis Outline

The thesis structure is as follows: Introductory Chapter 1, the initial research (Part I, Chapters 2, 3 and 4), consideration of each tradition (Parts II, III, IV – Chapters 5 through 10) and a concluding Chapter 11 that draws the findings together.

Part I: Chapter 2 presents a long story and so is broken into four sections each based on the legislative nature of local government (the permissive, prescriptive and

¹⁰ *The Macquarie Concise Dictionary*, 4th ed., s.v. “political”; *The Shorter Oxford English Dictionary on Historical Principles*, 3rd ed., 1992, s.v. “political”; *The Penguin Dictionary of Politics*, 1985, s.v. “polis”; *The Routledge Dictionary of Politics*, 3rd ed., s.v. “polis”

general competence periods) and a discussion on trying to make sense of reforms. What are the common factors in understanding resistance to reform? Why are rational policy tools based on quantitative measures failing to achieve desired reforms? Why is it reform only succeeds where State and local government each feel they have ownership, are in partnership, take responsibility for and show leadership with a strong mutual commitment to accepting change? Research suggests that where local concerns (identity, community of interest, representation and participation) cannot be easily quantified, qualitative policy tools can be considered as the next step in understanding local government to engender meaningful reform.

Part I: Chapter Three introduces an interpretive approach. It is explored for the value of how it turns the gaze from institutions to the people that interact with them. From this a set of traditions, localism, voluntarism and representation, relevant to local government are proposed as the next step in understanding what local government means.

Part I: Chapter Four concludes Part I by outlining the methodology used to understand patterns of practice, talk and considered writing in finding the meaning of local government past and present.

Parts II, III and IV develop propositions for local government traditions of localism, voluntarism and representation. They derive these traditions from practices in Britain which stretch back to the medieval period and over the first and second periods of English reform. Written sources in Van Diemen's Land/Tasmania from settlement to current times and fieldwork then seek connections between the proposed traditions and local government practice. Each Part commences with an Introduction, a chapter deriving the tradition from English local government, followed by a chapter linking the tradition to local government practice in Van Diemen's Land/Tasmania and finishes with a Conclusion.

Drawing on a wide range of sources both written and oral, it is proposed that the local government traditions present in the development of local government in Tasmania were drawn from a largely rural English society. These traditions were those present in the period *between* the two periods of English reform, rather than those which evolved during the second reform period. Written sources are explored for the presence and strength of such traditions and their possible impact on efforts to

reform Tasmania's local government in the late nineteenth and for much of the twentieth century. If this is the case, historical discussions placing the origins of Tasmania's local government in the second period of English reform would also likely fail to fully consider the impact of penal, political and society development, land settlement and the physical nature of the island. The failure to understand and acknowledge that such ideas and beliefs are present in the island's people and that the ideas and beliefs persist over time would then likely impact on amalgamation and other local government reform debates. If it is accepted that the ideas and beliefs as traditions are more closely aligned to those present in England *prior* to the second period of reform, and that these traditions influenced local government practice, is this an explanation for why reform has been or may continue to be so difficult? It is proposed that if there is a persistence of such traditions, then this can be revealed both in the written record through responses in local government practice to dilemmas posed by amalgamation and other local government policy reforms, and through talking with people who are part of current local government, to listen to what they are saying. To maintain consistency in revealing these ideas and beliefs through the historical written records available (and restricted to quoting Mayors), the fieldwork has been limited to interviewing Mayors.

Chapter 11 contains the final conclusions for the thesis. It draws together the arguments and considers what conclusions can be drawn.

PART I: APPROACHING THE PROBLEM

INTRODUCTION

Part I is all about what the problem is, and how to find a way to understand it.

Chapter 2: Tasmanian Local Government Reforms considers the history of local government reform in Tasmania, covering three periods based around the underlying intent of municipal legislation in that period (permissive, prescriptive and general competence). In working out how to make sense of local government reform the question arises whether it is the institutions or the people that form part of the problem.

Chapter 3: Interpreting Local Government continues the discussion points raised at the end of Chapter 2 and will make a case for focusing not on the institutions but on the people. It will argue for using an interpretive approach and proposing traditions and dilemmas as a means of understanding what local government means. It will conclude by proposing three traditions (localism, voluntarism and representation) and briefly discuss the ideas, beliefs and dilemmas associated with them that impact on local government practice.

Chapter 4: Methodology – How to find out what local government means is the final chapter in Part I. The methodology used in approaching the problem of understanding reform is considered as well as a number of issues that arose as part of the research project.

PART I: APPROACHING THE PROBLEM

CHAPTER 2: TASMANIAN LOCAL GOVERNMENT REFORMS

CHAPTER 2 INTRODUCTION

Chapter 2 outlines the administrative history of development and consolidation of local government in Van Diemen's Land/Tasmania and looks at reasons for the failures and limited successes of these attempts. It searches for a pattern of non-rational claims that are difficult to be given weight in any rational policy approach and yet which appear to block such attempts; for example, claims of loss of "community of interest" or the inability to properly represent larger sized local communities due to representatives having to travel further at their own cost. These arguments have been used at the local government level against colonial and State government demands for efficiency and effectiveness reforms. The question arises whether rational policy tools are the best means of understanding consolidation, particularly amalgamation, tensions. Does the focus on rational institutional local government changes fail to include the strength of people's beliefs and values underlying local government, in understanding what "local" means and why it matters, and thus be a cause of the limited successes and failures?

Local government was deliberately introduced with the intended policy that local services would be delivered and largely paid for at the local level, thus relieving the island's central government of financial responsibility. While initially resisted by free settlers who were at the time demanding their rights as British citizens in a penal colony, local government was seen as a stepping stone to greater parliamentary developments. The reluctance to accept full financial responsibility for various municipal roles or to then give up particular roles and responsibilities when suggested by the island's central government have been countered with ideas of what local government means and its importance to local communities.

This chapter is broken into four sections based on the description of the underlying local government legislative description of each period: permissive, prescriptive and

general competence, and a general discussion on making sense of the presence of local government in Tasmania. In the period from settlement to the 1906/07, with the exception of Hobart and Launceston both of which operated under general purpose prescriptive municipal legislation and as corporations similar to those of England, local government development for the rest of the colony was permissive with local government taking on functions to the level each locality desired. The prescriptive period reflects the introduction of island wide municipal legislation with clear rules as to what local government could or could not do. Rural municipalities were now on par with Hobart and Launceston. The 1993 reforms introduced a hybrid form of general competence legislation, in that while rules applied, there was the capacity for flexibility and innovation.

In concluding Chapter 2, the final section questions what sense can be made of the presence of local government in Tasmania. Do common beliefs and values emerge at the local government level and have they appeared to have contributed to resistance to central policy change demands in Tasmania?

Section 1: Permissive Period 1803-1906/07

The present machinery of municipal government was probably modeled(sic) on the English plan, where the functions are extremely wide in scope, including education, police and charity, which absorb half of the rate revenue, whereas such functions are carried out here by the central government. It must be apparent to everyone that the smallness of many municipal units is wasteful of the ratepayers money, and that an enquiry should be set on foot to ascertain the degree of consolidation that should be brought about to effect a much needed reform.¹

If it came to amalgamation, each individual council would not mind having another municipality tacked on, but would not be prepared to sink its own identity.²

Introduction

The permissive period of Tasmanian local government covers the period of settlement to full municipalisation of the island. It is broken into two time periods of settlement to 1858 and then 1858 to the introduction of full municipalisation in 1906/07. With the exception of Hobart and Launceston both of which operated under prescriptive sets of legislation reflecting the development of each locality, local government in this period reflects the problems of low population, isolation and economic booms and busts. The colonial military governors attempted to deal with funding problems and management of convicts. Free settlers demanded to be treated as British citizens as if they were still in England while they generated as much personal property as possible from exploiting the island's resources. The tension between the two groups influenced to a large degree how local government was developed over this period.

1803: The "English plan" transported

Local government represented an enduring set of ideas and institutions that appeared to be transferred without question from Britain. It first manifested as road trusts in the colony of Van Diemen's Land, was formalised when the colony became the State of Tasmania and persisted past Federation. The choice of local government

¹ Tasmania, "Financial Statement of the Treasurer of Tasmania", *Journal and Printed Papers of Parliament*, 1938, Paper No. 18: 42

² Warden of Beaconsfield reported in *The Examiner*, 22 November 1938: 4

institutions was axiomatic for free English settlers in managing their local situations, as *The Colonist* describes:

We glory in the institutions of our Mother Country. We feel that pride, which swells the heart of every Briton; we know that these feelings are not inherent, but are the effects of education, and the enjoyment of those rights, which belong to a British Constitution. We desire to bring up our children with the same feelings, and to transmit them, and their posterity, the same rights which we have enjoyed.³

Given that legislation tends to be prescriptive to achieve a purpose and given the strong model of local government in Britain, it seems unusual that first attempts at municipalisation led to the creation of a permissive style of local government in Van Diemen's Land. In 1856 the colony was faced with a weak central government and sufficient economic problems that any opportunity to shift the cost burden of public sector activities to the local community was highly favoured by the colonial government. Statewide imposition of municipal institutions was however avoided. What contributed to the policy of a permissive approach?

Whilst free settlers had largely united against the paternalistic management of the colonial military Lt-Governors pre-1856, post-1856 a weak parliamentary government meant concerns of locality and regional politics took a greater prominence. The central institutions of the newly minted colonial State of Tasmania were created for responsible government in 1856. It still took Parliamentary members three attempts at forming a Ministry before there was a period of stability (1857-1860). Although there was an Opposition, there was no party system as is experienced in today's Parliaments. Neither then was there any real scrutiny of legislation. Those associated with Opposition were considered such an "unprincipled faction" that "gentlemen of any self respect recoiled from even a momentary association (and) could not consent to be identified with them for an instant only (such that) the faction threw almost uncontrolled authority in the hands of the Government" at the time.⁴ From this, it would be natural to assume that municipal government would be heartily embraced once legislation for the areas outside Hobart and Launceston was proclaimed in 1858. This was not the case for some years and even then the entire island was not covered with municipalities. Understanding why

³ "Petition of Landholders, Merchants, and free Inhabitants of the Colony of Van Diemen's Land", *The Colonist*, 13 August 1832

⁴ *The Hobart Town Daily Mercury*, 1 March 1858:2

requires examining the combination of the attitudes of free settlers towards taxation and representation. An example would be when the colonial government tried to introduce prescriptive road legislation (and therefore tolls and taxes) prior to 1856.

Attempts to establish a road trust system in 1840 represented the first limited attempts of devolution of powers to local areas by the colonial government. For the Lt- Governors it provided the first indications that transplanting institutions from Britain to penal colonies with differing conditions would not be easy. Unlike conditions in Britain, the colony was very sparsely inhabited and scattered away from the two major settlements in geographically isolated terrain. Apart from a few brief periods of economic prosperity, the challenge was to financially support the level of infrastructure and services needed for the colony to thrive. The early problems of food and materials supply created a strong reliance on the colonial government through its control of the economy via the Commissariat. The demands for services and cheap convict labour continued even as numbers of free settlers increased and contributed to the island's economy in parallel with the full funding of convict costs from the colonial treasury up until 1836. Given the greater number of convicts to free settlers and the aggressive reactions of the Aboriginal population to settler depredations and land loss, again the colonial government was relied upon to supply protection for property.

For free settlers, Van Diemen's Land was a new land, a place of opportunity. The accumulation of property through convict labour, land grants and consolidation of debt-laden land grants enabled a class of people to rise further above their expectations than if they had stayed in Britain. New wealth had to be protected and this "opulent class" opposed the sorts of direct taxation likely to be experienced in Britain.⁵ The amount and types of direct taxation that were levied in Britain (assessed taxes, highway assessments, poor laws, church rates, window duties, etc) were viewed as abuses. A new life in the colonies represented freedom from the burdens of taxation and, as one settler stated, "from those burdens they *will* be free."⁶ The colonial Lt-Governors faced very strong opposition in the imposition of quit rents on Crown land grants, this form of taxation being seen as an inequitable land tax by free settlers, a strongly entrenched attitude to direct taxation that lasted into

⁵ AOT, Non State 1147/1, G.T.W.B Boyes, *Boyes Diary*, 26 November 1849

⁶ *Colonial Times*, 5 October 1827; see also R.B. Madgwick, *Immigration into Eastern Australia, 1788-1851*, (Sydney: Sydney University Press, 1969), 67

the 1870s.⁷ This same “opulent class” were also heavily represented in the Legislative Council and supported by other free settlers. Payments for policing, gaols and public infrastructure was the sole responsibility of Britain, to be paid for by the British Treasury. The idea that the free settlers greatly benefited from public expenditure in developing their own wealth seemed to be either ignored or deemed as of right as recompense for the predations by bushrangers and the displaced and increasingly aggressive Aborigines.

Yet the lack of supply of well-maintained roads to open up land and get goods to market was a sour point between the free settlers and the colonial government.⁸ Under Lt-Governor Arthur’s regime and faced with British treasury demands to reduce costs, only the least skilled and worst of convicts worked on the road gangs, making progress slow and unsatisfactory.⁹ Local committees established in 1832 to assist the Survey Office submitted lists of what roads were needed where in the colony, to be underwritten by convict labour and centrally funded and controlled by the colonial road department. From July 1836 the cost of policing and gaols was transferred from the British to the colonial treasury, reducing available monies for public works and increasing pressure for local contributions.

By the early 1840s the idea of local taxation for construction and maintenance of roads was raised in Lt-Governor Franklin’s *Road Act 1840*, modelled on the *English Highways Act 1835*. The free settlers broadly resisted it, especially when it was suggested road commissioners would be appointed, not elected. The absence of British rights – trial by jury, free press, elected representatives –were contested and demanded by free settlers since the 1820s. The question then of who would pay for construction and maintenance of roads became entangled with loyal subjects’ demands for British rights in a colonial outpost.

Arthur had enforced the primacy of Van Diemen’s Land as penal colony with tight central control. Franklin refused any idea of free settlers having control of convicts

⁷ Stefan Petrow, “Discontent and Habits of Evasion”: The Collection of Quit Rents in Van Diemen’s land, 1825-1863”, *Australian Historical Studies*, 32, no. 117 (October 2001): 240-256; R.M. Hartwell, *The Economic Development of Van Diemen’s Land 1820-1850*, (Carlton: Melbourne University Press, 1954), 40-43

⁸ *Hobart Town Courier*, 17 November 1827, 4 March 1836; *Colonial Times*, 10 July 1832

⁹ K. Fitzpatrick, *Sir John Franklin in Tasmania 1837-1843*, (Melbourne: Melbourne University Press, 1949), 86. See also *Historical Records of Australia*, Series 3, Arthur to Murray, 3 April 1829: 305; *True Colonist*, 15 January 1836, 19 February 1836

for road construction and maintenance and initially rejected the ideas of local control by elected road commissioners:

...that the principle upon which [the free settlers'] plan is founded, has been acknowledged in England, is a circumstance furnishing not the slightest reason for its adoption here".¹⁰

Despite bowing to public pressure and amending the *Road Bill* to allow for elected commissioners, Franklin's *Road Act 1840* was a failure on implementation.

Rationally, the dissatisfaction with the construction and maintenance of roads and the problems of funding should have led to its adoption by the free settlers by electing road commissioners as the Act allowed. However for many settlers, their rights and interests lay with "being authorised to manage the concern themselves" – in other words, local institutions could not exist separately from an elected representative assembly.¹¹ They refused to elect commissioners as

...the colony not having the benefit of an elective representative legislature, [it is not considered] expedient at present to proceed with the election of commissioners.¹²

Franklin was unable to resolve the road problems by getting free settlers to contribute at a time of economic boom. His successor, Lt-Governor Eardley-Wilmot, in the face of worsening economic conditions, also attempted to convince free settlers to contribute through either tolls or rates for road construction and maintenance. By this time, direct taxation for public infrastructure, already entangled with demands for a representative parliament, was further ensnared by colonial discontent over the poor state of the local economy and unemployment caused through introducing the probation system for transported convicts.¹³ A local newspaper summed up the situation:

What more cruel and tyrannical than that a country should be taxed beyond its utmost resources, far beyond its declining means, and should be obliged to pay for what it would gladly discard; this too, without having a voice in the matter, without a single representative to declare its wishes or its wants? For it is a fact though hardly to be credited in a free country like this, that while the annual expenditure of the island is some £140,000, every farthing of which is derived from the pockets of the inhabitants, the Government consists of a

¹⁰ *Hobart Town Courier*, 26 May 1837

¹¹ *Colonial Times*, 13 April 1841; see also *Cornwell Chronicle*, 17 April and 7 August 1841

¹² *Colonial Times*, 13 April 1841

¹³ Hartwell, *The Economic Development of Van Diemen's Land*, 80-84

Viceroy and a few members of Council, half of them holders of office, and all of them appointed by the Crown.¹⁴

Eardley-Wilmot's two road measures, the *Main Road Act* 1846 and the *Cross and Bye Roads Act* 1846 shifted the idea of roads as a public resource to one of private concern – paid and maintained by local landholders or principal users.¹⁵ These measures essentially failed also. Attempts by Eardley-Wilmot to introduce a *Paving and Lighting Bill* for Hobart were also rejected by the free settlers because it was aimed at saving the colonial government money yet they were refused full municipal rights. The cry of “no taxation without representation” was vented in public meetings as well as calls for passive resistance through not voting for the proposed Board of Commissioners.¹⁶

By the time the next Lt-Governor, Denison, had turned his attention to the state of the roads, the free settlers had shifted in their attitudes somewhat, being willing to pay modest local contributions towards roads. Yet they also wanted a substantial government contribution.¹⁷ While initially unsuccessful, Denison finally succeeded with a voluntary or permissive approach to road maintenance and the introduction of tolls, albeit only on busy roads.¹⁸ By taking the voluntary approach, further progress was made in convincing free settlers to take financial responsibility for local roads.¹⁹

By 1852, the success of a voluntary approach enabled the now partly elected Legislative Council to pass a new *Cross and Bye Roads Act* modelled on the previous *Roads Acts*. The whole island was divided into road districts, administered by locally elected trustees empowered to raise rates and tolls and assisted with generous government aid and expertise. (See Map 4.)

The period leading up to the municipalisation of Hobart and Launceston was not without controversy. The problem of taxation of free settlers without any

¹⁴ *The Courier*, Saturday 25 July 1846, p. 3

¹⁵ Grant Rootes, *A Chaotic State of Affairs? The permissive system of local government in rural Tasmania 1840-1907*, (PhD thesis, University of Tasmania, 2008), 63. See also p. 69: A cross road was from town to town, town to main road, town to navigable river; bye roads lead from farms or other private property to cross or main roads.

¹⁶ *Hobart Town Advertiser*, 18 July 1845, 22 July 1845; *Hobart Town Courier*, 30, 31 July 1845

¹⁷ *Hobart Town Advertiser*, 21 September 1847, 26 November 1847

¹⁸ For example, Rootes points to the *Brown's River Road Act* 1848, *Elderslie Road Act* 1848, *Paterson's Plains Road Act* 1848, *Main Roads Act* 1848

¹⁹ Others that Rootes highlighted include *Bothwell Roads Act* 1849, *Westbury Road Act* 1849, *Longford Road Act* 1850, *Hamilton Road Act* 1850. Rootes' thesis contains a comprehensive listings of roads trusts, legislation, town boards, etc that proved an invaluable resource for understanding the institutional development of Tasmania's local government.

representative body as existed in England was complicated by colonial military governors such as Arthur and Denison who insisted on central control of local government. The demands of free settlers for full representation were denied on the basis of Van Diemen's Land being a convict colony and so the fight shifted to free settlers, particularly in the north of the island in Launceston, waging a campaign to end transportation. Successful municipal legislation in 1852 enabled local government elections in 1853 in Hobart and Launceston, although the pro- and-anti-transportation factions dominated debates, rather than municipal matters.²⁰

The strong desires by free settlers for real representative institutions plus the efforts of the colonial government to achieve local responsibility for road construction and maintenance started a trend for voluntary *ad-hoc* development of future local government institutions. Outside of the already established Corporations of Hobart and Launceston, governance of rural areas took a new form with the *Rural Municipalities Act 1858*.

1858: "local provision, for local wants, locally identified"²¹

In 1858 the now colonial parliamentary State government passed a permissive *Rural Municipalities Act* acknowledging the problems of a low tolerance for central government-imposed local institutions. At the core of the Act was a widely held view underpinned by a prevalent *laissez-faire* attitude that the provision of government services could be more efficiently and cheaply provided by local authorities who acted as "bulwark of, and guarantee for popular liberty...necessary to a proper scheme of self-government".²² Representative local government institutions could be spread around the State as needed by its isolated and small communities and with the majority of costs eventually expected to be borne by those demanding services.

Municipalities could be established upon the petitioning of qualified landholders in towns, or in electoral, police or road districts. Control of policing, water supplies,

²⁰ Stefan Petrow and Alison Alexander, *Growing With Strength. A History of Hobart City Council 1846-2000*, (Hobart: Hobart City Council, 2008), 5-25; John Reynolds, *Launceston: History of an Australian City*, (South Melbourne: The Macmillan Company of Australia Ltd, 1969), 96-99; R.L. Wettenhall, *A Guide to Tasmanian Government Administration*, (Hobart: Platypus Publications, 1968), 312-313

²¹ E.P. Hennock, "Central/Local Government Relations in England: an outline 1800-1950", *Urban History Yearbook* 1982, 39

²² *Colonial Times*, 9 November 1854

public roads and streets, limited licensing, registration and administration of certain Acts would come under local control, and provide opportunities for local self-government.²³ It was optimistically noted at the time:

[T]here may be some in each district so accustomed to have everything done for them that they will continue in the old rut to the end of their days. All that can be done with such is to tax them in common with others, and leave them to grumble amiably or unamiably over their large landed possessions and big balance in the bank, and to afflict their souls with the apprehension that they will be ruined by the tax-gatherer and die in a workhouse. Our hope is...in men in the meridian of life, redolent of English liberty, and prepared to give up time as well as to pay money for the privileges still denied to the great majority of mankind – that of managing their own public affairs.²⁴

As to taking up such an opportunity, it took two years before the first municipality was established and another six before nineteen rural municipalities came into existence (see Map 5). The reluctance to take up “free institutions” may have been the fear of local taxation but the carrot of local control, especially over policing local populations given the abuses that were suffered under the pre-1858 centralised policing system, was a strong inducement for landholders and commercial businesses.²⁵

The reluctance to take up municipalisation over the whole of the island could have been any combination of an agricultural population unwilling or unable to give up time or afford the cost of public office, the fear of taxation expense in a marginal agricultural economy, or indeed a lack of ability to undertake any intricate or difficult aspects of government.²⁶ While the intention was for island-wide municipalisation, and even if road trusts covered the whole island, only twenty one municipalities were created, including the two major settlements which had already existed since early settlement. Sixteen settled areas were outside formal municipalities. The lack of full municipalisation in turn meant the central government was then willing to create specialised bodies at the local level to deal

²³ Wettenhall, *A Guide to Tasmanian Government Administration*, 313

²⁴ *Launceston Examiner*, Saturday 3 April, 1858: 2

²⁵ See Stefan Petrow, “The Hobart Town Municipal Police 1858-1878”, *Tasmanian Historical Research Association Papers and Proceedings*, 42, no. 4 (December 1995): 165-184; “Economy, Efficiency and Impartiality: Police Centralisation in Nineteenth Century Tasmania”, *The Australian and New Zealand Journal of Criminology*, 31 (July 1998): 242-266; “Policing in a Penal Colony: Governor Arthur’s Police System in Van Diemen’s Land, 1826-1836”, *Law and History Review*, 18, no. 2 (Summer 2000): 351-395.

²⁶ K.R. von Stieglitz, *A History of Local Government in Tasmania: From the earliest settlement of Van Diemen’s Land to the Present Time*, (Launceston: Telegraph Printery Pty Ltd, 1958), 59

with single issues where populations asked for help, rather than enforce wholesale municipalisation. The colonial State Government overcame such inhibitions using petitioning to avoid coercion as well as the use of initial generous aid and later regular grants in aid. The preference for a permissive policy approach to local government was extended to the later creation of Town Boards to deal with lighting, drainage, road works etc. in the absence of any local desire for municipalisation.

Did a permissive system work? Certainly local government institutions began to spread across the island, which was the aim of the policy. In its implementation the Achilles heel for the central government with its permissive local government policy lay with finances. The unwillingness to levy sufficient local taxation or the inability to raise loans to carry out the works wanted by ratepayers resulted in central government having to continually fund a proliferation of statutory bodies. Thus was unwittingly created by the end of this period of local government “a confusing patchwork of petty districts and authorities modelled largely on the earlier road trust system”.²⁷ While some municipalities were financially well off, other municipalities, town boards, road trusts, etc., struggled to raise a sustainable amount of money to create and maintain infrastructure and services. During the period of the 1870s-1880s, the combination of financial scandals and poor performance in the provision of economic and efficient works and services caused the central governments of the day to cut financial aid and enforce conditions on further eligibility – policies that left local authorities even more vulnerable during the 1890s recession.²⁸ The geographical isolation and insularity of the island’s many small communities meant that the doubling up of a number of capacities that occurred between municipal councils and the many other small statutory bodies was eventually considered “a waste of time, energy and money”.²⁹

Dissatisfaction also occurred in the provision of policing services both in terms of cost and provision and the dispensing of justice. Policing was territorial in jurisdiction, costly to both central and local government and felt to be more favoured

²⁷ Dr. John McCall quoted in R.L. Wettenhall, “Towards a Reinterpretation of Tasmania’s Local Government History”, *Journal of the Royal Australian Historical Society*, 67, Part 2 (September 1981): 111.

²⁸ Grant Rootes, “Striking at the very foundation of local government? Municipal amalgamation in rural Tasmania, 1906-1940” *Tasmanian Historical Research Association Papers and Proceedings*, 56, no. 1 (April 2009): 23

²⁹ McCall quoted in Wettenhall, “Towards a Reinterpretation”: 111

towards the class of men of property, who were invariably both elected to councils and sat on the magistrate benches as Justices.³⁰

Any revenue raised by rural councils had to be used to keep a police force before other municipal works could be carried out. Provision of gaols, payment of salaries, costs of forage for horses, uniforms, and provision of housing for police had to be met, needing upwards of two thirds of the newly created council's revenues. Small rural municipalities asked for and received police subsidies from the central government. Out of the 21 municipalities, nine needed subsidisation to pay for their police force. Unsustainable as this situation eventually became through the economic downturns of the 1880s onwards, when police subsidies were suggested to be withdrawn or the force centralised as a means of providing a more efficient and island wide effective service, the central government was accused of attempting to "crush the spirit of local government which they should foster, and were committing a gross act of injustice to municipal districts."³¹

At play in the reluctance to centralise were the experiences of the rural elites, elected through a restrictive franchise and often occupying both local government and Parliamentary positions. Because of their past experiences of the convict era, they appear locally conservative and reluctant to strengthen central powers.³² It was feared centralisation of police was likely to lead to a loss of local liberty and freedom of speech, particularly at public meetings:

Do your readers remember how that a year or so ago a constable under orders attended the forum and pluckily forced a speaker from the platform? This is a taste of what may come when legally done.³³

Such a comment harks back to pre-colonial State days where individual liberties were less certain under the rule of early colonial military governors.

Nonetheless, in a colony where much of the working classes were derived from convicts, local elites whose property qualifications enabled them to serve on local

³⁰ See Shane Breen, "Local Authority in Colonial Tasmania 1858-1898", *Journal of Australian Colonial History*, 2, no. 1 (April 2000):29-49, particularly 34, 36; Tim Jetson, *The Roof of Tasmania: A History of the Central Plateau*, (Launceston: Pelion Press, 1989), 59-60; Henry Reynolds, "'That Hated Stain': The Aftermath of Transportation in Tasmania", *Historical Studies*, 14, no. 53 (October 1969): 28, "'Men of Substance and Deservedly Good Repute': The Tasmanian Gentry 1856-1875", *Australian Journal of Politics and History*, XV, no. 3 (December 1969): 68-71

³¹ *The Mercury*, 24 January 1889: 3

³² Petrow, "Economy, Efficiency and Impartiality": 351-395

³³ "Centralisation", *The Mercury*, 6 August 1888: 3

authorities were keen to keep control of policing.³⁴ Wardens of rural councils were invested with the powers of senior lay magistrates in 1865 and so held considerable power over local populations. Landowners used the local police and lay magistrates in rural areas to enforce the *Master and Servant Act* and licensing provisions, so keeping close control on a rural workforce with convict origins “practiced nowhere else in Australia” in the second half of the 19th century.³⁵ Centralisation proposals were opposed for reasons of taking a certain amount of power out the hands of Wardens and councillors. As one observer of a meeting debating the measure noted:

That was where the shoe pinched, and [as argument against] some bald statements were made contrasting the old territorial system with the present one of dual authority, of course much to the detriment of the former. The real opposition lay in the disinclination for change of any sort, and the desire to retain the power (councillors) at present hold. “Let well enough alone” was their motto, and as they were in reality passing judgment on their own actions, it is but natural that (the councillors’) verdict should be condemnatory of any change.³⁶

The long-serving Warden of Westbury, Daniel Burke, stated:

...by the municipalities retaining power over the police when they could have thrown it up, was evidence of the present system being a good one.³⁷

In the closing decades of the nineteenth century, debates over local government reform and centralisation of police conflated ideas surrounding the need for island-wide local self-government, policing and economic management.³⁸ In debating municipal police expenditure, the government of the day noted some smaller municipalities kept as many police as larger ones (for example, Green Ponds compared to Oatlands) and the permissive approach had reached, in the government’s view, breaking point:

Many of the municipalities receiving aid had been cut off from larger districts, and unless something was done this sort of thing would go on until they had in the municipalities a similar state of matters that existed in connection with the Road Trusts. At present there was no inducement to municipalities to economise, and some of the smaller ones went to more expense than the larger municipalities...no doubt that when many of the small municipalities came to

³⁴ Petrow, “Economy, Efficiency and Impartiality: 242-266

³⁵ Shane Breen, *Contested Places: Tasmania’s Northern Districts from ancient times to 1990*, (Hobart: Centre for Tasmanian Historical Studies, 2001), 166

³⁶ *The Mercury*, 28 August 1889: 3

³⁷ *The Mercury*, 13 September, 1889: 3

³⁸ *The Mercury*, *op.cit.*: 3

find they had to rate themselves (on an equal footing for police costs) they would amalgamate with larger districts.³⁹

Withdrawal of the policing subsidy and relieving municipalities of policing costs in 1898 finally achieved police centralisation, but not without extended opposition from rural municipalities (especially in the north) and the Legislative Council, *despite* the poor reputation of the municipal police forces and the cost to both local municipalities and the colonial government.⁴⁰

The permissive system of local government was successful in spreading local institutions around much of the State, however implementing responsibilities and carrying out of various infrastructure projects had mixed outcomes. As with policing, various communities were often unable to afford to raise sufficient rates. Those elected on a property franchise to serve found it not in their interests to increase rates to the levels needed. The 1880's downturn in the State's economy with decreasing government aid fuelled debate for reforming the permissive system. The State government believed "smaller districts should be compelled to amalgamate with others, and by doing so they would enjoy greater facilities, and would not require so large a rate". Smaller municipalities were "a blot on the whole system".⁴¹

When attempting to effect reforms at the State level, at the same time as proposing the centralisation of police, an attempt was made to repeal the numerous Acts relating to local government with an Act for full municipalisation of the island "to dovetail it into existing arrangements".⁴² The complexity of local government by this point in time required a Bill, "a rather formidable affair", with 411 clauses, "an exceedingly long and elaborate one".⁴³

³⁹ *The Mercury*, 9 November 1889: 1

⁴⁰ Shane Breen, *Contested Places: Tasmania's Northern Districts from ancient times to 1990*, (Hobart: Centre for Tasmanian Historical Studies, 2001), 143-148; Stefan Petrow, "Tolerant Town, Model Force; The Launceston Municipal Police, 1858-1898", *University of Tasmania Law Review*, 16 no. 4 (1997): 264-265; "Turbulent Tasmanians: Anti-Railway Rate and Sectarian Riots and Police Reform in the 1870s", *Australian Journal of Legal History*, 3 (1997): 73-96; "Economy, Efficiency and Impartiality": 242-266; "Policing in a Penal Colony": 184; "Policing in Rural Tasmania: Bothwell 1863-1898", *Tasmanian Historical Research Association Papers and Proceedings*, 47 no. 2 (June 2000): 123-125

⁴¹ *The Mercury*, 31 January 1889: 3

⁴² A.I. Clark MHA Attorney General, quoted in *The Mercury*, 11 July 1888: 4. See also Stefan Petrow, "'A New Order of Things': A.I. Clark and Law Reform in Tasmania 1887-1897", *Tasmanian Historical Research Association Papers and Proceedings*, 47, no. 4, (December 2000): 243-245

⁴³ *The Mercury*, 16 June 1888: 2, 11 July 1888: 3

Public meetings and parliamentary debates on the 1888 Bill reported unfavourable feedback from rural constituencies.⁴⁴ The Bill was “too much of a permissive character”, that there was a “possible interference with the existing road districts”, that the increased municipal functions were “too onerous to perform” in that elected men “were unpaid and had to travel long distances”.⁴⁵ There was also a strong sense of belief in rural areas that larger amalgamated municipal bodies would be less efficient. As an example:

I refer you to clause 272 and other clauses, which assume that Road Trusts are abolished, and the power hitherto vested in them will be vested in the Council, who consist of nine men, and I will ask you if you consider that those nine men can do the work as well, economically, and efficiently as the larger bodies of the present Road Trusts, for in those various bodies there are men who are directly interested in their work, and give their attention to it. It has been said that the gentlemen composing those bodies are not equal to the trained professional, and I am not prepared to say they are; but I am prepared to stand here and say the amateurs, as they are called, often make for £100 as firm a road for all practical purposes as was done under the Government control for 30 or 40 per cent, more. Now if you give those nine gentlemen the work to do that is now done by a much larger number you can’t expect the work to be so well attended to. You can find men who from business or other causes can give a certain amount of their time to public duties who could not attend to it if so much additional work was thrown on them.⁴⁶

Money was a key problem, for while placing all the numerous local government organisations under a single municipal body was seen to be a sensible reform, “in other respects questions may arise as to how the necessary funds are to be provided for the duties imposed.”⁴⁷ Objections were raised to any increased local taxation to cover any loss of subsidy, and the complexities of determining raising rates between road districts and any new municipal bodies in that “confusion must arise with regard to the different boundaries and the different amount of taxes levied”.⁴⁸ How to resolve the loss of management of local interest was a further concern. As one Member of the House of Assembly (MHA) commented:

He was convinced that the bill would not meet the particular requirements of his own district owing to the distance between the three points of Waratah, Emu Bay, and Wynyard, for he did not see how one body could look after their different interests. How could they expect the representatives of Emu Bay to travel to Waratah to attend a meeting when the fare alone was 25s. It would

⁴⁴ *The Mercury*, 31 January 1889: 22, 28; 30 August, 1899:5, 6, 13; 17 September 1889

⁴⁵ *The Mercury*, 11 July 1888: 3; 20 July 1888: 3

⁴⁶ *The Mercury*, 30 August 1889

⁴⁷ *The Mercury*, 16 June 1888: 2

⁴⁸ *The Mercury*, 11 July 1888: 3; 20 July 1888: 3

result in some parts being unrepresented, and the provision that the rates collected in one division should be spent in that division would be useless without some representative were present to see that such rates were being spent to the best advantage of his division.⁴⁹

The strong resistance to change to create new municipalities also came from the “many petty road trusts, rabbit and fruit boards, etc”.⁵⁰ For example, the landowners and ratepayers of the Sorell Creek Road District were not convinced:

[T]hat the repairs of the roads could be economically managed under the Council of Glenorchy as at present, the utmost economy being used, and no charge whatever being incurred for superintendence. The roads (were) kept in most excellent order, to which the very remarkable progress of the district is chiefly due, all supervision and management being willingly done by competent residents. There (was) no security provided by the bill that the councillors of Glenorchy, most of whom will have their interests in other parts of the municipality, (would) keep up what has been hitherto done...in a district closely occupied which has so recently been cleared from the bush.⁵¹

At a public meeting in Huonville to which a number of road trust and other local body representatives were invited, the *Local Government Bill* was found “most objectionable”. Based on local experience, large districts were unmanageable. Experience had taught the locals “districts that were too large worked unsatisfactorily” referring to the fact “that many of the Road Boards had found it necessary to divide and sub-divide.” The district being proposed “was so large that it would be difficult to find men who would give their time and energy to the performance of their duties.” The matter of increased taxation was also a significant concern.⁵² Even for ratepayers in favour of policing and municipal reform, concerns were expressed that the object of “best Government at the lowest possible cost” was not likely to be met, with ratepayers facing increased taxation.⁵³

The withdrawal of the Bill did not stop attempts at reform. Given the scale of municipal debts and circumstances of municipalities, Parliament recognised “they cannot do out of their own resources the works that are required”, and this problem extended even to the two city councils (Hobart and Launceston) in dealing with water supply, sewerage, street works and other demands.⁵⁴ The problem of only

⁴⁹ *The Mercury*, 11 July 1888: 3

⁵⁰ Wettenhall, *A Guide to Tasmanian Government Administration*, 313

⁵¹ *The Mercury*, 17 September 1889:

⁵² *The Mercury*, 26 September 1889: 3

⁵³ *The Mercury*, 23 September 1889: 3; 22 October, 1889: 3

⁵⁴ *The Mercury*, 8 October 1889: 2

parts of the island being served by municipalities was an ongoing issue. As one Parliamentarian demanded:

[T]here should be a redistribution of Municipal districts in the colony, and that all districts should be forced to undertake municipal action. No doubt many of the municipal districts would complain, but they were only putting an end to an iniquitous system, and putting all districts on an equality.⁵⁵

The permissive policy approach had unintended consequences in its implementation. By 1895 local government was described as “ludicrously attenuated” with the system “reduced to an absurdity”, where a person living near Launceston would pay:

[H]is real estate tax at Launceston, his road rates at Carrick, his dog license at Breadalbane, his codlin moth tax at Longford (it was formerly Cressy), and if a birth or death occurs in his family, he has to go to Evandale to register it.”⁵⁶

Examination of the costs of the various local government bodies for 1893 revealed extensive problems of revenues barely covering costs and government subsidies for works being part-expended on salaries and expenses. As well, the requirements enabling spending of monies needed the election of trustees duly advertised and carried out according to the Act, an office to be leased, a secretary and other officers appointed, stationery printed and the accounts duly gazetted and audited by the Government Auditor. It was questioned whether this was “not carrying local government to the extreme?”⁵⁷

Examination of rural municipal accounts for 1893 revealed that two thirds were spent on police and of the sum remaining, over half on salaries for wardens and council clerks (noting that the warden and clerk acted also as the local stipendiary magistrate and bench clerk). In all, given the wide range of powers able to be exercised under the Act, most of the funds raised in municipalities were expended on the maintenance of law and order and the administration of justice. There was “some disposition” to take on new functions and act more comprehensively, but this was exceptional to the rule.⁵⁸ Evandale Municipality, for example, was described as having a main township of a few hundred inhabitants, with a municipal council, a water trust, a fruit board, a road trust, and a main road board, as well as other road

⁵⁵ *The Mercury*, 9 November 1889: 1

⁵⁶ “Local Government in Tasmania. What it is and what it costs. No. 1”, *The Examiner*, 10 September 1895: 4

⁵⁷ “Local Government in Tasmania. What it is and what it costs. No. 2”, *The Examiner*, 11 September 1895: 4

⁵⁸ “Local Government in Tasmania. What it is and what it costs. No. 3”, *The Examiner*, 12 September 1895: 4

trusts at St. Leonards and North Esk. Further examination of the accounts published in the Gazette for road trusts, main road boards, town boards, cemetery trusts, fruit boards, water trusts and marine boards revealed a pattern of costly bureaucracy, little income, larger government subsidy and expenses largely consisting of salaries and costs.⁵⁹

In the closing decade of the nineteenth century with increased financial pressures from the 1890s depression, one more attempt was made to reform local government. The removal of policing to the central government in 1898 provided the circuit breaker against the argument that without policing, local government in Tasmania would be weakened with its influence impaired.⁶⁰ Unfortunately, the Bill was again a set of State suggested reforms, well researched, but also complex with over 620 clauses to address the over 1,200 sections of Acts relating to local government in the Statute Books.

The difference this time was to suggest that any new municipal boundaries would be determined by an arms-length-from-government commission, thereby attempting to satisfy local concerns of State-imposed boundaries. Shire councils would act as umbrella organisations for small, under-funded authorities. A comprehensive approach to management was suggested with single bureaucracies providing administration for the numerous statutory bodies. The foundation of the Bill was:

...provision for a moderate exercise of power by small communities as to their local concerns...accompanied by a provision for including these same communities in the larger municipality which shall have in charge those interests which are common to wide areas.⁶¹

F.W. Piesse MLC, in tabling the Bill in the Legislative Council in 1899, noted at the same time Tasmania's move to enter into the Australian Federation:

But the accomplishment of federation, highly important as it is, does not carry with it more wide-reaching effects upon the life of our little community than the devising and giving effect to a suitable system of Local Government...

In short, while federation is the crown of the edifice, not less truly is Local Government the foundation, and, indeed, the only sure foundation which the English-speaking people of the world have discovered for the preservation of

⁵⁹ "Local Government in Tasmania. What it is and what it costs. No. 4", *The Examiner*, 13 September 1895: 4, 5; "Local Government in Tasmania. What it is and what it costs. No. 5", *The Examiner*, 16 September 1895: 4

⁶⁰ *The Examiner*, 24 March, 1898

⁶¹ "Local Government. Report of Joint Parliamentary Committee", *The Mercury*, 25 August 1899: 4

the national life they have enjoyed and its future perpetuation and development.⁶²

Piesse attempted to gain wide public support for this Bill, arguing that its provisions “are not made so rigid that no latitude is allowed for any differences of circumstance, or for any desire on the part of the ratepayer of any portion of the colony to modify the policy of having a number of local areas with separate local authorities”, introducing the idea of elective shire councils that would take under their control the existing smaller local bodies.⁶³

The complexity of the Bill resulted in a mixed, although generally unfavourable public and press reaction. With a change of government, it was broken into nine parts and all failed to pass a third reading. Reform continued to be resisted because the solutions presented did little to allay fears that larger municipal boundaries would have to contend with conflicting interests of the many smaller communities within them or indeed neglect them.

Conclusion

A permissive system of local government enabled the introduction of local government institutions over much of the State. It was marked by failures to raise sufficient revenue and control the proliferation of local authorities. State-imposed attempts at reform, other than for centralising policing, were met with strong opposition. At fault was a central government happy to set up a system of local government but too willing to devolve various responsibilities to local authorities without sufficient funding or co-ordination. Reform was resisted by fears of smaller communities being lost in larger municipalities. By the end of the nineteenth century reform was becoming more urgent but attempts to achieve a comprehensive system had to wait for the turn of a new century.

⁶² “Federation and Local Government. Important Speech. New Measure Fully Explained”, *The Mercury*, 7 September 1899: 3

⁶³ *Ibid.*

Section 2: Prescriptive Period 1906/07-1993

There is too much endeavour by the central Government to fleece the local government of its powers and duties. The council clerks and the councils are closer to the public than the central Government. We should at all times be loyal to the State, but we should also look after the interests of local government.⁶⁴

Remember when we had 49 LGAs? Sounds crazy to think we had municipalities with a few as 1000 residents.⁶⁵

Introduction

The prescriptive period is so named because local government was only able to undertake roles and responsibilities as allowed by legislation. To act otherwise was to risk being found “ultra-vires”. Tasmania entered into the twentieth century with significant problems of debt, low population compared to other States and the economic issue of being far from markets. The prescriptive period was marked by municipal councils struggling to catch up with the financial impacts of changes in society while at the same time coping with increasing demands for effectiveness and efficiency from the State government and municipal ratepayers. Two World Wars and the Depression period placed added heavy burdens on municipalities as did the long period of prosperity post World War II. This period is marked by municipal councils resisting unilateral change by using their political influence in Parliament or through legal challenges.

1906/07: “tidier administration and fewer demands on the central treasury”⁶⁶

The government of the new State of Tasmania in 1901 faced serious debt problems. Strong public demand and political challenges came from a State Reform League for decreases in public sector expenditure and opposition to increases in taxation, as well as eventually local government reform. Attempts continued at reform pushed by the strong belief that only a State-wide municipal system had the capacity to undertake successful implementation of local responsibilities through taxation of large enough populations. The “introduction of a proper system of local government would mean

⁶⁴ “Government Efforts to ‘Fleece’ Powers From Councils Condemned by Clerk”, *The Mercury*, 27 May 1953: 13

⁶⁵ Letters to Editor, *The Mercury*, 21 March 2013: 21

⁶⁶ Wettenhall, “Towards a reinterpretation”: 113

great economy”⁶⁷ with local authorities being expected to rely less upon State grants and funding. Continual devolution of central government activities to small statutory bodies (either wholly or mainly elected) had created a “chaotic” and “embarrassing” situation.⁶⁸

Concerns were also expressed that those serving on boards actually had the qualifications and capacity to carry out their tasks.⁶⁹ As one local government practitioner wrote in 1902:

In the town I inhabit, which might more fitly be termed a village, having regard to the paucity of its inhabitants, there are no less than six independent local bodies, each with a separate staff, separate books, and most of them presiding over different areas. In addition we have the newly-constituted ‘Local Authority’, dealing, or rather mis-dealing with the subject of assessment. As to districts, their name is legion. Let me enumerate them:

1. Geographic or Territorial District.
2. County or shire.
3. Legislative Council electorate.
4. Assembly electorate.
5. Municipal district for police purposes.
6. Proclaimed town area for police purposes.
7. Licensing district.
8. Assessment district.
9. Board of health district.
10. Cemetery trust district.
11. Water trust district.
12. Road district.
13. Mining district.
14. Court of Requests district.
15. Codlin moth district.

So far as I am aware, no two of these are co-terminous except Nos. 1 and 7. No. 8 exactly includes two road districts. The boundaries of the codlin moth district I have not ascertained.⁷⁰

This same practitioner, having been a “six-fold official at one time”, pointed out that in a “Tasmanian country town it is certainly difficult to throw a stone without hitting an official of some grade, salaried or otherwise”. He complained of the lack of qualifications (no member of the health board “has the remotest idea of sanitary science”), that a number of the bodies were defunct and that finances were insufficient (the road district rate “would afford an insufficient salary for one

⁶⁷ *The Mercury*, 24 June, 1902

⁶⁸ *Daily Telegraph*, 5 February 1900

⁶⁹ See for example Tasmania, Parliament 1901, *Report on the Royal Commission on the Municipal Government of Hobart and Suburbs*, Parl. Paper No. 5, Hobart

⁷⁰ “Local Government in Rural Tasmania”, *The Examiner*, Monday 10 February 1902: 7

efficient officer, and had a road mileage farcically inadequate to occupy the attention of one road supervisor”).⁷¹

As to how many local government bodies really existed, there appeared to be a deal of confusion in any discussion dealing with changes to local government— anywhere between 238 to 356, not allowing for 63 Main Road Boards and several Water Trusts.⁷² Or for that matter, rabbit boards, drainage trusts, marine boards, local school boards/boards of advice or boards of works.⁷³ It was calculated that 2,012 positions might needed in this system of local government, if each were to be filled separately.⁷⁴ It was even argued municipalisation was considered the means for “better men (having) an opportunity of undertaking the work of local government”.⁷⁵ The question of course, was how to get agreement on any proposed changes.

The introduction of a permissive system acknowledged the problems of foisting local institutions on unwilling landowners. State-imposed attempts at later amalgamations were then resisted through concerns of loss of control over local needs and the ability to supply them. Smaller communities feared being incorporated into large municipalities, believing they would be taxed for services they would derive little or no benefit from or that their concerns would not be fairly or fully represented. Proposals for larger districts were rejected on the basis “more work (would be) given for members to do and a greater distance to travel, (so) many would not be able to give their time for nothing, and ratepayers’ interests would not be as well served as at present”.⁷⁶

Success was achieved by firstly consulting on the content of local government reform legislation with members of local authorities to gain their support and agreement through negotiation over a period of time and secondly, bi-partisan agreement to continue the initial work of the Bill even though there was a change of government and the Minister in charge had moved to become a private member.

In 1904 it was suggested a Town Boundaries Commission would be appointed to divide the State into municipal districts, each district to have an elected council and

⁷¹ “Local Government in Rural Tasmania”, *The Examiner*, Monday 10 February 1902: 7

⁷² “How we are governed”, *The Examiner*, 2 June 1902: 5; “The Premier at Richmond”, *The Mercury*, 17 July 1902: 2

⁷³ Wettenhall, *A Guide to Tasmanian Government Administration*, 313

⁷⁴ “The Premier at Richmond”, *op.cit.*: 2

⁷⁵ *The Mercury*, 7 August 1902

⁷⁶ *The North Western Advocate and the Emu Bay Times*, 16 September 1902: 2

with wards to ensure smaller communities were fairly represented. All of the existing local authorities would come under the control of a municipal body with greater rating powers. A series of conferences enabled “local bodies to have an opportunity of framing the (legislative) measure to their own liking”.⁷⁷ The aim for the State was for:

...larger districts with greater revenues (able to) ...employ competent officials. Thus the State Government might be relieved of a considerable amount of work it was presently doing.⁷⁸

While the outcome was an acceptable consolidation bill supported by those attending the local government conferences, due to a change in government a further draft was not introduced to Parliament until 1906, and as a “non-party measure” to ensure it received bi-partisan support.

The final outcome by the end of 1906 was the *Local Government Act 1906*.⁷⁹ Quite cleverly on the part of a politically risk-averse State Government, the five Commissioners had full authority; that is, were not subject to political review and could resist political pressure in their final recommendations from both Parliamentarians and local lobbying. They were empowered to determine the number and boundaries of no more than sixty municipalities, and within each, wards between three to five with, as practically could be achieved, an equal rateable area. Councils retained elected positions, a limited form of plural voting for both adult men and women and a judicial role with Wardens as ex-officio Justices of the Peace. All of the powers and responsibilities of pre-existing local authorities were to be subsumed into the new councils, who could now appoint standing and local committees to manage and oversee them.⁸⁰ There was even a provision to have an elected Council replaced with a Commission if needed.

As with consultation over the legislation, the Commissioners also spent time visiting local authorities to understand concerns over boundaries and responsibilities. Three months were spent consulting over potential municipal and ward boundaries. The

⁷⁷ *The Examiner*, 2 February 1904

⁷⁸ *North West Advocate*, 18 March 1904

⁷⁹ See also Tasmania, Parliament 1907, *Boundaries Commission Report on the Division of the State of Tasmania Into Districts, and the Sub-Division of Districts into Wards Under “The Local Government Act”, 6 Edward VII, no. 31*, Parl. Paper No. 24, Hobart, also referred to as: Tasmania, Parliament 1907, *Boundaries Commission, Local Government Boundaries*, Parl. Paper No. 24, Hobart

⁸⁰ Wettenhall, *A Guide to Tasmanian Government Administration*, 314

existing road trust system proved a useful measure for creating new municipalities overcoming the “anxiety of neglect and fear of exploitation” that had created so many road trusts over time. The town boards were another matter. They resisted being joined with rural areas and in the case of the Devonport Town Board, even tried to have the Act suspended.⁸¹

However while the outcomes of the Town Boundaries Commission work was not the large municipal districts earlier envisaged by previous reform attempts, it did result in a better distribution of populations and capacity to raise revenue for municipal works (see Map 6). The use of the ward system ensured reasonably equitable representation although the problems in parts of the State where town and country populations were difficult to reconcile delayed elections and commencement of the new municipalities until January 1908.

There was a confidence that after forty years of talk and failed bills that municipal reform was “the most noted political event of the year”.⁸² The extension of a municipal system to “practically the whole of the island”, with “strong municipal councils, possessing extensive powers” would be capable of meeting the demands placed on them.⁸³ Members of the State government “venture[d] to express the confident hope that the new Councils will emulate the fine example of self-reliance, assiduity, and earnestness for the good of the country set by their predecessors”.⁸⁴

Was a “tidier administration with fewer demands on the central treasury” achieved?⁸⁵ The worm at the heart of the rose was the decision of the Commissioners to create comparatively small municipal districts accommodating local “community of interest” patterns of the earlier councils and existing local authorities, rather than larger municipal units with a minimum rateable value that would ensure capacity to carry out the responsibilities demanded. Earlier reform proposals had calculated a minimum of £20,000 annual value in determining boundaries. Of the fifty municipal councils created, eighteen were calculated to have between £10,000-£20,000 in

⁸¹ Grant Rootes, *Local Government Reform in Tasmania 1906-1939: with special reference to the North West Coast*, (MA diss., University of Tasmania, 2004), 88-90; *A Chaotic State of Affairs?*, 424-425

⁸² *The Mercury*, 1 January, 1908: 6

⁸³ *Daily Telegraph*, 5 January 1907: 6

⁸⁴ *Daily Telegraph*, 3 January, 1908: 4

⁸⁵ Wettenhall, “Towards a reinterpretation”: 113

annual rateable value and eleven at less than £10,000.⁸⁶ The situation of loans and grants to municipalities for provision of services was to continue until well into the twentieth century, with heavy reliance for funding of roads and other works, placing significant strain during economic downturn and depression. The situation of road works in smaller rural municipalities was exacerbated as the use of motorised farming and transport vehicles started to deteriorate roads that were already considered in poor state, leading to greater demands for financial assistance.

The expectation that a number of local authorities were to be subsumed into the new municipal Councils was not met either. Seventeen public cemeteries as well as five water and three drainage trusts were still in existence when the 1939 Royal Commission on Local Government sat (some still persisting until late into the twentieth century).⁸⁷

Decentralisation was achieved yet at the same time the new municipalities were able to exert significant influence on the government of the day via a Legislative Council mainly composed of members and ex-wardens of municipal councils willing to resist any consequent municipal reforms not viewed as in the best interests of councils.⁸⁸ Overall, the new municipal system “cemented the power of parochial interests for more than one generation” and failed to accommodate increasing changes in Tasmania’s society and economy in the first part of the twentieth century.⁸⁹

1937-1972: Unilateral reforms resisted

If reforms attempted between 1937 and 1960 were overtaken by a combination of local resistance via the Legislative Council and world events, the saga of the 1962 Municipal Commission and events following the 1997 Nixon Report demonstrated municipal bodies were not averse to using judicial means to protect municipal boundaries. Administrative, financial and infrastructure changes at the local level occurred in a long drawn-out series of State-initiated reforms. However unless there

⁸⁶ “Local Government Boundaries: report on the sub-division of the state of Tasmania into districts”, Tasmania: *Journal of Printed Papers and Parliament*, 1907, Parliamentary Paper No. 24, 9-10.

⁸⁷ Wettenhall, *A Guide to Tasmanian Government Administration*, 318; Tasmania, Parliament 1939, *Report of the Royal Commission on Local Government*, Parliamentary Paper No. 15, Hobart, 32-33

⁸⁸ Grant Rootes, “Striking at the very foundation of local government? Municipal amalgamation in rural Tasmania, 1906-1940” *Tasmanian Historical Research Association Papers and Proceedings*, 56, no. 1 (April 2009): 21

⁸⁹ W.A. Townsley, *Tasmania From Colony to Statehood 1803-1945*, (Hobart: St. David’s Park Publishing, 1991), 247, 306

had been co-operation with municipalities, the boundaries of Tasmania's Councils continued to accommodate regional preferences and "communities of interest".

The first decade of statewide municipalisation and even during the First World War was a time of municipal infrastructure investment with rising expenditure on public works such as sewerage, lighting and water supply.⁹⁰ Such works were funded by loans taken out before the First World War and inevitably as interest payments became due they had started to rise from six percent in 1910 to nine and a half percent in 1920.⁹¹ The impact of increasing municipal wages was debated in Parliament resulting in municipalities being asked to consider reductions in the number of municipalities, minimum revenues needed to be sustainable, how the municipal budget was spent on administration and roads and whether the ward system and number of councillors was still in favour.⁹² Such concerns were rejected.

Argument was returned that:

...smaller municipalities were worked as cheaply, if not cheaper, than the larger districts or some of them at all events...it was shown that if some of the small outlying places such as Bruny Island were incorporated with other centres it would mean a big additional bill for travelling expenses...it was as well to leave the business alone, unless the people concerned desired a change.⁹³

In any case, although it was admitted that amalgamation was necessary where smaller councils had difficulties with finances, "it should not be attempted unless there was a community of interest".⁹⁴ Coercion of municipal bodies was to be rejected, even if it:

...made for economy it would not be conducive to satisfaction. Local Government[sic] means that each community should be allowed to manage its own affairs as it pleases.⁹⁵

In 1921 municipal employees' wages came under State arbitration and began to steadily rise, even when municipalities were permitted to pay part time wages as an economy measure. To avoid as much as possible the situation of "money which should be spent on the roads, streets and other municipal undertakings...going to the money lender", rate increases were the only answer.⁹⁶ Inevitably, such increases

⁹⁰ See for example, *The Mercury*, 27 April 1922

⁹¹ Rootes, "Striking at the very foundation": 27

⁹² "Re-Defining Municipalities", *The Advocate*, 22 October 1920: 1

⁹³ "Local Government. Argument Against Amalgamation", *The Advocate*, 8 November, 1920: 2

⁹⁴ "The Municipal Boundaries Question", *The Advocate*, 29 October 1920: 3

⁹⁵ "Fair and Impartial. The Municipal Conference", *The Advocate*, 1 November 1920: 2

⁹⁶ "Municipal Finance", *The Advocate*, 12 April 1923: 2

were resisted by ratepayer associations, despite the view taken that “ratepayers are really shareholders in the business side” of councils.⁹⁷ Unfortunately such financial pressures coincided with a statewide period of economic depression.⁹⁸

Tasmania’s entry into Federation left it financially vulnerable, compounded by the post war collapse of world commodity markets in the 1921, sparking yet another economic depression. Mining, agriculture, manufacturing and tourism were all badly affected; Tasmanians responded by emigrating.⁹⁹ State government works and services had been funded by loans, and where new loans were undertaken, these were for interest payments on earlier loans. Taxes were raised, and federal funding sought, yet the underlying issues of lack of natural resources and isolation from markets could not be overcome. At the end of the 1920s a series of poor agricultural seasons meant even more out-migration as soldier settlement farms failed and people were forced off the land.¹⁰⁰ The lack of secondary infrastructure and manufacturing contributed to outflows of rural workers. Through the 1920s-1930s, hydro-industrialisation began to attract secondary mining and manufacturing yet this failed to fix the State’s economic woes with the onset of the Great Depression. At the State government level, funding for public works was slashed, borrowing curtailed and salaries reduced. Unemployment was partly countered with low interest loans to municipalities for road works and public buildings.¹⁰¹

Nonetheless, municipal councils had struggled post the First World War to undertake the works expected once finances were squeezed and social and technological changes created increasing financial demands. Declining revenues, a lack of sufficiently competent administrators and the high costs of administration combined with poor revenue collection from financially straightened ratepayers. Further attempts were made to re-organise municipal administration via grouping service delivery and boundary changes in 1924 and 1926. Both attempts were rejected. Again, the language from the State was once of “economy and efficiency in local government activities” while some local government officials opposed any

⁹⁷ *The Advocate*, 12 December, 1927, 9 December 1931; *The Examiner*, 13 May 1920, 13 October, 1931; *The Mercury*, 13 October, 1931, 12 September 1935

⁹⁸ See for example, “Municipal Rates”, *The Advocate*, 23 July 1931: 4

⁹⁹ Lloyd Robson, *A History of Tasmania, Vol. II, Colony and State from 1856 to the 1980s*, 2 vols., (Melbourne: Oxford University Press, 1991), 390-391

¹⁰⁰ *Ibid.*, 409

¹⁰¹ *Ibid.*, 434

“Government interference” in a matter that should be decided by Councils alone.¹⁰²

It was not the case that municipal reform was not needed – it was well recognised many small municipalities were a financial drain and inefficient, and that few voted in elections.¹⁰³ Yet legislative attempts to impose a boundaries commission free from any political interference were soundly rejected by the municipally defensive Legislative Council, echoing strong local criticism of the “high-handed attitude of the Government in allowing three men to parcel out Tasmania as they liked”, even if these same people in local government felt a little amalgamation was warranted.¹⁰⁴

Curiously, for all the talk of economy and efficiency, the *Lockyer Report* was scathing of the State Government’s willingness to loan monies to municipal bodies, in effect accepting a financial responsibility in matters in which it was not directly concerned. This led to larger expenditures than otherwise should have been the case and encouraging the “feeling that the parental indulgence of the State may be relied upon when the due date for payment of interest and other obligations call for settlement.”¹⁰⁵ Serious as this financial drain was, it was not really acknowledged in its urgency until the 1930s with the addition of local government taxation into the Commonwealth’s Grants Commission analysis of funding claims and the fact that the Tasmanian government (unlike other States) still paid the interest on municipal loans.¹⁰⁶

The ceding of responsibility to either the State or government appointed Trustees by municipalities in financially difficult circumstances added to exposures by the State’s Auditor-General of serious financial breaches and misappropriation of funds by a number of small Councils.¹⁰⁷ In a situation echoed in the water and sewerage reforms at the close of the twentieth century, road maintenance in the mid-1930s became a focus for reform. Small councils were unable to keep up with maintenance and damage caused by traction engines and then pressure for better roads through increasing automobile tourism continued to compound financial demands. When

¹⁰² “Labor Conference”, *The Advocate*, 7 July 1924: 4, “Municipalities. Proposed Amalgamation”, *The Advocate*, 15 October 1924: 5

¹⁰³ “Small Municipalities”, *The Mercury*, 25 June 1926: 11, 1 December 1926: 9

¹⁰⁴ “Municipal Boundaries. Amalgamation Scheme”, *The Mercury*, 14 December 1926: 5

¹⁰⁵ “Assistance with ‘Severe Conditions’”. Sir Nicholas Lockyer’s *Report and Recommendations on Tasmania’s Claim*, *The Mercury*, 20 April 1926: 7

¹⁰⁶ Commonwealth Parliament, *Commonwealth Parliamentary Papers 1937*, Vol. 155, Commonwealth Grants Commission Fourth Report, Parliamentary Papers No. 75, 59

¹⁰⁷ Rootes, “Striking at the very foundation”: 27; see also “Discussion on Municipal Control”, *The Mercury*, 26 November 1937: 11

amalgamation of municipalities was to be “seriously considered” at the 1938 Municipal Association of Tasmania conference as one means of addressing revenue shortfalls for roads and updating machinery, the view was expressed it “would serve no good purpose unless (councils) were able to obtain more revenue”.¹⁰⁸ The following Conference opposed uniform assessments and uniform rating for road purposes, preferring instead to seek a share of the motor and petrol tax collected by the State government.¹⁰⁹ Yet where the Government sought to improve the efficiencies of the State’s transport systems with the institution of a statewide Transport Commission in 1938, the dual system of state-local control developed in the nineteenth century persisted, with municipalities continuing to receive central funding despite the government’s view it was “a recognised fact that municipalities throughout the State are not endeavouring to help themselves”.¹¹⁰

Abolition of small councils “on the grounds of economy” became the policy of the Ogilvie Labor government (1934-1939), as was reform of municipal finance and functions given strong evidence of mal-administration.¹¹¹ The Commonwealth Grants Commission was penalising the State due to the low local rating in municipalities, to the extent that if rates had been equal to the average of three non-claimant States, then Tasmania would have gained an additional £86,000 more in its special grant.¹¹² Although the economic problems of the 1920s were difficult, the problems of the 1930s due to the Great Depression were diabolical and part of this was sheeted home to a strong need for municipal reform as a matter of urgency.¹¹³ In its first Budget the point was made by acknowledging “reform of municipal finance and functions was required”.¹¹⁴ In the absence of significantly increasing State taxation, with the State carrying much of the cost of municipal activities and a low municipal rating decreasing Commonwealth grants, the Treasurer decided:

¹⁰⁸ AOT, CB 52/6/1 “Minutes of Proceedings of the Twenty-Seventh Annual Session”, Municipal Association of Tasmania, 18 May 1938, 17-18

¹⁰⁹ AOT, CB 52/6/1 “Minutes of Proceedings of the Twenty-Eighth Annual Session”, Municipal Association of Tasmania, 31 May, 1939, 11

¹¹⁰ Wettenhall, *A Guide to Tasmanian Government Administration*, 136-137; “Absolute Control”, *The Mercury*, 4 July 1938: 7, 1 December, 1938

¹¹¹ Rootes, “Striking at the very foundation”: 28; see also *The Mercury*, 24 October 1934: 6, “Properties off Rolls”, 22 July 1938: 9

¹¹² “Penalties on State”, *The Mercury*, 27 October, 1939: 1

¹¹³ Commonwealth Parliament, *Commonwealth Parliamentary Papers 1937-40*, Vol. 163, Commonwealth Grants Commission Fifth Report, Parliamentary Papers No. 90, 80-81; see also “Local Government Commission”, *The Mercury*, 4 November 1938: 2

¹¹⁴ “Labour Government’s First Budget”, *The Mercury*, 24 October 1934: 6

It should be obvious to all that from almost every point of view, the position of the municipalities in Tasmania required to be comprehensively and probably considerably altered, including the important issue of the functional and financial relationships with the State.¹¹⁵

A Royal Commission was called in 1938 with the Treasurer arguing municipalities:

...leaning on the Government for support in providing services which in other States are provided by the municipalities at the expense of the property owners, make the financial position of the State Government worse than it should be.¹¹⁶

The Commission's Terms of Reference had a wide remit to report on administration and finances, valuation, voting and the best form of municipal government (number, wards, functions, boundaries) as well as co-ordination with the State in carrying out municipal and State public works. Its key reporting focus in its final report was the need for modernisation of finances and reporting, the lack of which was the "prime cause of so many municipalities having debit balances in many accounts".¹¹⁷ By amalgamating a number of the smaller municipalities, it would be possible to bring Tasmanian councils more into line with other States' averages and effecting considerable savings.¹¹⁸ This, after all, was *the* driver from the State Government's perspective. "Amalgamation was desirable in the interests of economy and administration", the Auditor-General argued. He saw it as the "most important issue with which the Commission had to deal (for)...(t)he good of the community at large (had to) be considered, rather than a parochial spirit."

Amalgamation would not only enable purchasing of road-making and maintenance equipment capable of carrying heavy traffic, it would enable division of municipalities by road "mileage" capable of being controlled by qualified engineers and so represent a "considerable saving in administration costs".¹¹⁹ The idea was floated of groups of councils sharing costs and use of equipment for municipal works. This was seen as a benefit for "impoverished municipalities". The major cities could even benefit from "territorial expansion".¹²⁰

¹¹⁵ "Low Level of Municipal Rating", *The Advocate*, 9 July 1938: 7

¹¹⁶ "Pith of the Budget: Higher Taxes", *The Mercury*, 26 October 1938: 6

¹¹⁷ Tasmania, Parliament, *Journal and Printed Papers of Parliament 1939*, Vol. CXXI, "Report of the Royal Commission on Local Government", Parliamentary Paper No. 15, 7

¹¹⁸ *Ibid.*, 11.

¹¹⁹ See also "Twelve Districts Suggested by Public Works Engineer", *The Mercury*, 7 December, 1939

¹²⁰ "Municipal Control", *The Examiner*, 4 November 1938: 8

Not all those experienced in municipal management disagreed with implementing the Commission's findings, seeing advantages in amending not only boundaries but also public health roles, administration of justice, education and voting rights as economy measures.¹²¹ Even the Municipal Association's President considered it was time for an overhaul, "because it is now about 30 years since local government came into force".¹²²

The response from other elected people in local government was that they saw the problem as more revenue for them via State aid and in any case, the threat of loss of local control, rather than any need for amalgamation.¹²³ The view was expressed that any suggested amalgamations:

...would mean the end of local government...it would be impossible to keep in touch with and have the same interest in all parts of the proposed municipalities. Soon it would be a case of nationalising local governments and the rights of ratepayers would be gone.¹²⁴

The sense of importance in controlling local affairs was a strong sentiment:

The question of amalgamation of municipalities or alteration of boundaries of municipalities or wards should be left in the hands of owners and occupiers of property to decide.¹²⁵

Even if difficulties were experienced it was "imperative" for some to manage their own affairs "before throwing in the sponge" and accepting amalgamation.¹²⁶ Other Councils refuted claims of financial problems, arguing that larger municipalities would mean increased inspectors, more travelling expenses and little economy in abandoning already built public buildings, let alone that if local government was at fault, it was also the fault of the State Government for not acting sooner or for taking what were seen to be false economies.¹²⁷ Amalgamation of smaller councils might

¹²¹ "Fewer Councils", *The Mercury*, 15 November 1938: 8, "Twelve Districts Suggested by Public Works Engineer", 7 December, 1939, "Administration Of Justice. Effect of Municipal Amalgamation", 15 December 1938: 16, "Fewer Municipalities", "Nine Members in Each Council", 9 December 1938: 13, "Health Services", 16 December, 1938

¹²² "Commissions Opposed", *The Examiner*, 22 November 1938: 4

¹²³ "Clarence Council to Give Evidence", *The Mercury*, 9 December 1938: 13; "Municipal Commission in North. Wholesale Amalgamation of Municipalities Opposed", *The Advocate*, 25 January 1939: 2

¹²⁴ "Would Mean End of Local Government", *The Examiner*, 1 February 1939: 9

¹²⁵ "St Leonards Opposed to Amalgamation", *The Examiner*, 25 January 1939: 10, "Matter Should Be Left To Ratepayers", 1 June 1939: 10

¹²⁶ "Rokeby-South Arm Road", *The Mercury*, 11 November, 1938: 7, "Gormanston and Strahan May Be Eliminated", 26 November 1938: 13

¹²⁷ "Council Finances Are Healthy", *The Examiner*, 29 November 1938: 6, "Longford Council. Amalgamation Opposed", 13 December 1938: 4, "Making Worst Possible Case For Councils. Member Attacks Minister and Public Servants", 26 January 1938: 6; "Devonport's Municipal

be needed but not at the expense of loss of “district freedom” or identity or conflict of what was seen as “community interests” or indeed severing of communities.¹²⁸ For one Council it was a matter of what it saw as the “special conditions” of its municipality and its “geographical position”.¹²⁹ For others, difference in local agricultural economy was another important issue. For example, “it would be wrong to join Hamilton with any municipality in which the people had interests in fruitgrowing”.¹³⁰ Small councils argued that amalgamation with larger areas would entail an increase in rating without benefit.¹³¹ Overall, “the scheme to make amalgamation general throughout Tasmania has not got a hope”.¹³²

Many valuable suggestions for consolidation foundered on the rock of opposition to amalgamation at both the municipal and Legislative Council level.¹³³ The Royal Commission’s recommendations received a mixed response. While a number of administrative changes were well received, it was on the matters of voting, representation, amalgamation and grouping of services that responses varied.¹³⁴ The right of ratepayers to decide the future of their municipal identity by poll and how they were represented was a key issue, as was smaller municipalities and local administration being “preferable and more congenial...thus creating a greater community spirit”.¹³⁵ Suggestions of amalgamation struck at the “very foundation of local government” as “the theory of local government is local control by the residents

Problems. Warden Emphasises Need for Re-assessment”, *The Advocate*, 2 February, 1939: 6; “Royal Commission. Leven’s Attitude to Amalgamation”, *The Examiner*, 3 February 1939: 8
128 “Commissions Opposed”, *The Examiner*, 22 November 1938:4, “Derwent Valley. Future Municipal Boundaries. Plea for Community Interests”, *The Mercury*, 7 December, 1938: 6, “Ratepayers’ Feeling”, 21 December 1938: ; “Penguin Council. Royal Commission Proposals Discussed. Loss of District Freedom Feared”, *The Advocate*, 9 January 1939: 6; “Wants to Retain Identity”, *The Examiner*, 13 January 1939: 10; “More Efficient Control Needed”, *The Mercury*, 13 January, 1939: 3; “Municipal Commission. Views at Oatlands on Amalgamation”, *The Examiner*, 8 February 1939, “Local Government. Campbell Town As Centre”, 9 February, 1939: 8, “Municipal Commission. At Fingal”, *The Examiner*, 15 February 1939: 8; “Commission’s Report On Local Government. Municipal Association Opposes Drastic Alterations”, *The Advocate*, 16 November, 1939: 7
129 “Amalgamation Opposed”, *The Mercury*, 14 January, 1939: 17
130 “New Norfolk and Bothwell. Amalgamation Move Opposed”, *The Mercury*, 8 December 1938: 9, “Derwent Valley. Future Municipal Boundaries. Plea for Community Interests”, 7 December, 1938: 6
131 “St Leonards Opposed to Amalgamation”, *The Examiner*, 25 January 1939: 10, “West coast. Amalgamation Opposed”, 24 February 1939: 3, “Islanders Opposed to Amalgamation”, 25 March 1939: 8
132 “Royal Commission. Poll of Ratepayers Favoured”, *The Examiner*, 1 February, 1939
133 “Postponement Refused. Local Government Legislation”, *The Examiner*, 27 October 1939: 7
134 “Municipal Affairs. Beaconsfield Opinions”, *The Examiner*, 10 October 1939: 5, “Road Grouping Opposed. Many of Proposals Desirable”, 16 October, 1939: 5
135 “Drastic Change Opposed. Municipalities Willing for Reform”, *The Examiner*, 16 November 1939: 7

of a locality of their own affairs”.¹³⁶ Propositions of cutting the existing forty eight municipalities into thirty seven or twelve or eight or even three were strenuously resisted. Attempts to change from plural voting linked to property value to adult franchise received little support from local government members.

Attempts by the State Government to gain bi-partisan support for the necessary legislative changes via a resolution for a joint select committee of both Houses failed. An “overwhelming majority” of the Legislative Council voted it down, with the government accused of dealing with municipal councils in an “autocratic manner”, finding it “disgraceful the way in which the councils had been criticised and found guilty without being given a trial”. By obtaining “the assistance of members of the Chamber associated with local government in determining what recommendations should be accepted and what should be excluded”, any Bill would not be the work of the Government.¹³⁷ It was clear from the reporting of this debate the Municipal Association of Tasmania had played a large role in lobbying the Legislative Council. Lobbying was assisted by Members of the Upper House having a dual capacity to serve both in the Legislative Council and in an elected local government position.

Once the Bill was introduced in 1940 it was predicted by the conservative State Opposition that when it reached the Legislative Council “it would find its way into the wastepaper basket.”¹³⁸ Many of the measures proposed by the Royal Commission did. The Legislative Council forced the Government to accept a “rather hollow shell” that dealt only with the financial accountability of councils.¹³⁹ Amalgamations, grouping of services, adult franchise and setting up a local government board were all jettisoned. It was not surprising plural voting remained a favourite – it was not until 1946 that this form of voting was removed in favour of adult franchise from the Legislative Council.¹⁴⁰

A suggestion to wait until after the war before any further legislation was suggested appeared wise. Local government reform was “so contentious (it) ...would have a

¹³⁶ “Waratah’s Status Will Not Be Affected. Assurance Given by Chairman”, *The Advocate*, 24 February 1939: 5

¹³⁷ “Resolution Rejected By Council”, *The Examiner*, 17 November 1939: 6

¹³⁸ “Amendments Are Rejected. Local Government Bill Passes Assembly”, *The Examiner*, 23 May 1940: 6

¹³⁹ Rootes, “Striking at the very foundation”: 36

¹⁴⁰ Robson, *A History of Tasmania*, Vol. II, 530

disruptive influence on the community”, something to be avoided during the war period.¹⁴¹ Some minor changes succeeded post-war but they were essentially fiddling around the administrative edges of improving practices rather than any successful shifting of municipal borders. The establishment of a Local Government Office within the State’s Public Works Department was aimed to improve central supervision of municipal activities and other minor administrative and judicial changes. The appointment of a State liaison officer to assist with municipal administration changes “worked very satisfactorily”.¹⁴²

Opposition to two other attempts was characterised by the use of judicial intervention by local government to prevent amalgamations, in 1962 and 1997. In both cases smaller regional and rural councils took the initiative, rather than the larger better-resourced cities, to stymie change. The 1997 judicial resistance even partly contributed to the downfall of a Liberal-Green coalition government. Using legal means of resistance came about when State governments of the day attempted amalgamation in a way to ensure lobbying of the Parliament’s Houses could not interfere with this type of reform.

Post-war Tasmania’s economy and population started to rise on the back of a long period of prosperity stretching to the 1960s.¹⁴³ The rising populations of urban areas increased demands for infrastructure services which the small municipal areas had difficulty funding. Conversely the lack of population growth in rural and remote areas meant the councils lacked the capacity to fund services attractive for population growth. Problems abounded for roading, water and sewerage, health and community services and town planning, let alone the multitude of other functions the 1906 Act conferred on municipalities. While government expected municipalities “to take a prominent part in implementing post-war reconstruction plans” it also acknowledged municipalities lacked sufficient professional and technical staff to implement them.¹⁴⁴ Even with post-war funding for municipal roading, there were financial

¹⁴¹ “Devonport Council. Royal Commission’s Report Should Be Shelved Till After The War”, *The Advocate*, 10 October 1939: 5

¹⁴² *Policy Speech of the Premier of Tasmania (the Honourable Robert Cosgrove) delivered in Town Hall, Hobart, on Wednesday, 28 July, 1948* (Government Printer: Hobart, 1948), 16

¹⁴³ Robson, *A History of Tasmania*, Vol. II, 499, 509, 512, 525-530; W.A. Townsley, *Tasmania: Microcosm of the Federation or Vassal State, 1945-1983*, (Hobart: St. David’s Park Publishing, 1994), 154-155

¹⁴⁴ Tasmania, Parliament, *Journal and Printed Papers of Parliament 1944-45*, Vol. CXXXI, “Ministerial Statement: post-war reconstruction”, Parliamentary Paper No. 28, 8

difficulties in Tasmania at both State and local levels. The Federal government was unwilling to loosen financial controls, with the State bemoaning increasing taxation with “more and more of it...retained by the Federal Treasury” and what monies allocated to municipalities such as petrol tax as “totally inadequate to meet the needs of a State such as Tasmania”.¹⁴⁵ In response, the State continued to attempt devolution of functions with the expectation of local councils raising adequate taxation to meet such responsibilities, such as town planning in 1944. Similar issues existed for roading, water and sewerage supply in the period of 1945-1969.¹⁴⁶ As a response, up to the 1960s, there existed what Wettenhall described as an “uncritical development” of both state-run and local authorities with split powers and devolved functions—effectively an *ad hoc* approach substituting geographical parochialism with functional parochialism, and thus reducing local government’s effectiveness.¹⁴⁷

Modern town and country planning is another example of permissive then unilateral reform in Tasmania since its formal introduction with the *Town and Country Planning Act* in 1944. Initially concerned with improving housing stock in the post-war era, the State government expected Councils to draft town plans and municipal planning schemes to meet the expected post-war migration and industrial development. Planning journals have echoed the varying levels of success with this issue into the 1980s.¹⁴⁸ Suffice to say the parochialism of staying within municipal

¹⁴⁵ *Policy Speech of the Premier of Tasmania (the Honourable Robert Cosgrove) delivered in Town Hall, Hobart, on Monday, 3 April, 1950* (Government Printer: Hobart, 1950), 25

¹⁴⁶ See Grant Rootes, “Overstrained and creaking at every joint: local government in rural Tasmania 1945-1969” *Tasmanian Historical Research Association Papers and Proceedings*, 56, no. 2 (September 2009): 154-169. See also Tasmania, Parliament 1961, Report of Select Committee of House of Assembly with Minutes of Proceedings and Appendices, *Local Government Inquiry*, Parl. Paper No. 22, Hobart

¹⁴⁷ R.L. Wettenhall, “Tasmanian Local Government at the Crossroads”, *Public Administration*, 21, no. 4 (December 1962): 378-387

¹⁴⁸ See Rootes, “Overstrained and creaking”: 154-169. See also Norman J. Holland, “Regional Planning in Tasmania”, *Public Administration* Sydney, 12, no. 3 New Series, September 1953: 158-167; Stefan Petrow, “Making the city beautiful: town planning in Hobart c1915-1926”, *Tasmanian Historical Research Association Papers and Proceedings*, 36, no. 3 (September 1989): 99-112, “Against the spirit of local government: the making of Tasmanian town and country planning legislation”, *Australian Journal of Public Administration*, 54, no. 2 (June 1995): 205-218, “A City in Search of a Plan: Hobart, 1945-1962”, *Tasmanian Historical Studies*, 5, no. 1 (1995-6): 132-153, “Planning for the State: Moves towards co-ordinated planning in Tasmania, 1944-77”, *Tasmanian Historical Studies*, 8, no. 1 (2002): 96-117; H.L. Westerman, “Town Planning in Tasmania”, *Journal of Australian Planning Institute*, Vol. 1 December 1958: 18-24; E.G. Whitlam, *An Urban Nation*, Sydney: University of Sydney, 1969. See also collected articles; “Planning in Tasmania”, *RAPIJ Royal Australian Planning Institute Journal*, 19, no. 4 (November 1991); “Special Theme: Planning In Tasmania”, *Australian Planner, Journal of the Royal Australian Planning Institute* 26, no. 1 (March 1988); “Special

borders was partly to blame prior to 1993. That town planning was imposed on local government with insufficient resources and a lack of funding, and on an initially voluntary basis, did not bode well. It took until 1956 before even 41 councils had adopted municipal and town planning. By the early 1970s it was clear regional and statewide planning was needed but in echoes of the 1865 permissive council outcomes, the State was faced with reforming multiple planning schemes in an effort to attract investment to the State. The 1944 town planning reforms were summed up in 1970 as “defined by its lack of effectiveness”.¹⁴⁹

In policy debates over regionalisation in Tasmania with land use planning, the problems of parochialism persisted with local government tendencies of confining its interests by physical or administrative boundaries.¹⁵⁰ Until the watershed reforms of 1993, there was a marked reluctance to join together voluntarily to achieve common purposes. The lack of access to technical and professional expertise hampered municipal enterprises by single councils or encouraged shifting of functions from municipal to central government.

By 1961 the problems facing municipalities again made it clear there were too many with inadequate resources in money and people to meet the demands placed on them. Still, any attempts to improve the situation with regional planning or “grouping schemes” were met with resistance through lack of funding or being seen as “bordering on amalgamation”. Increased revenue from the State or Federal governments was still the local government solution.¹⁵¹ When such funding did arrive via the *Commonwealth Roads Act* in 1959, it actually compounded the problems for struggling rural Councils now faced with having to upgrade maintenance to deal with sealed roads.¹⁵² Rising construction costs, wages and interest on loans added to difficulties being experienced in the late 1950s and even when revaluation assisted in raising adequate rates, it was hampered by a shortage of qualified valuers.¹⁵³ Councils being taken over by Commissions to sort out financial

Theme: Australian Planning History”, *Australian Planner, Journal of the Royal Australian Planning Institute* 26, no. 3 (September 1988)

¹⁴⁹ Tasmania, Parliament, *Town and Country Planning. Report of Joint Committee of Both Houses of Parliament, with Minutes of Proceedings*, 1970, No, 103, 3

¹⁵⁰ Rob Nolan, “In Tasmania, regionalism versus parochialism”, *Australian Planner*, (August/September 1983): 101-102

¹⁵¹ “Better to Manage Own Roads”, *The Advocate*, 30 August 1949: 5; *The Mercury*, 26 May 1960

¹⁵² Rootes, “Overstrained and creaking”: 159

¹⁵³ *Ibid.*: 161

affairs were not an isolated incident. Despite this, the Legislative Council blocked boundary reform repeatedly in 1949, 1954, 1958, 1959 and 1960. The problems of a local government system described as “overstrained and creaking at every joint” coincided with a 1961 House of Assembly Select Committee advocating boundary reforms and the consolidation of the *Local Government Act* in 1962, as well as financial problems linked to commodity prices and financial credit.¹⁵⁴

The appointment of an independent Municipal Commission that could not be interfered with by Parliament in 1964 enabled yet another attempt at boundary changes to alleviate financial and other resource problems. Having failed at attempts via the Legislative Council to alter the membership of the Commission or enable Parliamentary scrutiny of any proposed amalgamation, municipalities were left with appeal provisions although the Commission had the final word.

The Commission’s first report was prefaced that it was “with some surprise” it was confronted with:

...an almost unanimous refusal on the part of councils to contemplate even the possibility that benefits could result from an amalgamation with other municipalities...it is apparent that a recommendation for any change will be quite unpalatable to many councillors, mainly, it would appear, from reasons of sentiment.¹⁵⁵

Twenty five of the existing forty nine municipalities preferred the existing boundary arrangements, twenty one were open to minor adjustments and only three, notably including Hobart and Launceston, suggested amalgamation with adjacent municipalities. The Commission also noted such an attitude was not confined to municipalities alone in the submissions of individuals and other organisations, including the Municipal Association of Tasmania which was “perhaps inclined to favour the existing order”.¹⁵⁶ From the Commission’s perspective, the functions of local government were service and infrastructure based. There was no mention of investigating “community of interest” in either its terms of reference under the 1962

¹⁵⁴ Robson, *A History of Tasmania*, Vol. II, 538; W.A. Bethune, *The Mercury*, 30 May 1960 quoted in Rootes, “Overstrained and creaking”: 155; Wettenhall, *A Guide to Tasmanian Government Administration*, 318

¹⁵⁵ Tasmania, Parliament, *The Reports of the Municipal Commission of Tasmania*, Parliamentary Paper No. 60, 1965, First Report, iii,

¹⁵⁶ Tasmania, Parliament, *The Reports of the Municipal Commission of Tasmania*, Parliamentary Paper No. 60, 1965, First Report, 2

Act or in Appendix 1 to the Report.¹⁵⁷ Its methodology was heavily focused on statistical, financial and population analyses in determining whether a municipality could operate efficiently or reach “optimum satisfaction” according to seven standards.¹⁵⁸ When it considered the 1939 Royal Commission report and evidence presented to the current Commission, it concluded that:

The present Commission rather doubts the validity of this principle. It can see no strong argument why the residents of a local government unit should have similar vocational, cultural or other interests. On the contrary, this Commission can see advantage, particularly economic advantage in a diversity of interests. This would also be of advantage in debates at the meetings of Councils. Different backgrounds of members would enable a wider range of knowledge and experience to be made available to the benefit of municipal affairs generally.¹⁵⁹

It considered the impact of all developments which had taken place in Tasmania since the 1906 reforms as:

...tremendous and greater in the 57 years under review than in any other half-century in history...the use of electricity alone...altered (Tasmanians’) way of life almost out of recognition.¹⁶⁰

From the Commission’s perspective, its resultant proposals for re-organisation into a county structure with attendant amalgamations would result, however painful for those affected, in a stronger and more independent system of local government to suit Tasmania’s circumstances.

Rural municipalities begged to differ so vociferously the Commission was inundated with petitions from nearly every municipality. After stating the Commission had misunderstood the “community of interest” principle, Councils then claimed that the proposed new municipalities had “divergent communities of interest that would lead to damaging political divisions that would hamper municipal business”.¹⁶¹ For them, again, it was a matter of reviewing sources of revenue rather than amalgamation as the solution to financial problems. Where petitioning against boundary re-adjustment had no effect, legal challenges led by a small rural council as to the validity of the report followed. From 1965 when the five reports were

¹⁵⁷ Tasmania, Parliament, *The Reports of the Municipal Commission of Tasmania*, Parliamentary Paper No. 60, 1965, First Report, p. 2, Appendix No. 1, “The Main Functions of Local Government”, 71

¹⁵⁸ Tasmania, Parliament, *The Reports of the Municipal Commission of Tasmania*, Parliamentary Paper No. 60, 1965, First Report, 17

¹⁵⁹ *Ibid.*, 23

¹⁶⁰ *Ibid.*, 25

¹⁶¹ Rootes, “Overstrained and creaking”: 167

delivered to 1972, the work of the Municipal Commission was dogged by legal challenges in the Supreme and High Court over quorums to hear evidence, natural justice, exceeding statutory powers and the validity of the reports. In February 1969 the High Court found that Councils had sufficient grounds to challenge the validity of the reports.¹⁶² By 1969 the very legitimacy of the Municipal Commission was questioned with the Liberal Government of the day moving to reconstitute the Commission and make it answerable to Parliament. The use of technical legal grounds served to preserve municipal identity through preventing amalgamations. A further inquiry in 1974 was equally unfruitful.¹⁶³

Conclusion

Only minor amalgamations were achieved after the 1906/07 reforms, including ironically St Leonards, who had previously been such an agitator against amalgamation, with Launceston. The fears expressed in the nineteenth century were much the same over the twentieth – that of smaller municipalities concerns being lost in larger ones. Unilateral attempts at amalgamation were resisted through municipal support in the Legislative Council or through the stymieing effect of legal challenges. Where the State did attempt other municipal reforms to meet prosperity demands from the 1950s onwards, they were permissive in nature and where not rejected on cost, resulted in more complex administration adding to burdens on local councils. No real wholesale boundary changes occurred despite a number of reports and inquiries until the modernisation process in 1990-1993.

¹⁶² Tasmania, *State Reports 1966-67*, Municipality of St Leonards v Williams & Others, *Commonwealth Law Reports 1969-1970*, Vol. 121, Brettingham Moore v Municipality of St Leonards in Rootes, “Overstrained and creaking”: 168

¹⁶³ Tasmania, Parliament 1974, Municipal Commission of Tasmania, *Report on Matters Relating to Local Government Referred by the Minister for Local Government*, Parl. Paper No. 14, Hobart

Section 3: General Competence Period 1993 to present day

As the closest level of government to the community, councils are in a unique position to identify community needs are met. As a consequence, no two councils are exactly the same and that difference can be what makes a council special to those who live in the municipal area. This is not to say there is not opportunity for reform in Tasmania and nationally. But the argument to simply change geographic boundaries is a simplistic one that fails to strategically take into account the community and operational drivers of a complex and diverse business.¹⁶⁴

Introduction

The general competence period refers to the ability of municipalities to take on roles and responsibilities with more flexibility and innovation, while staying within certain legislated standards. Changes to boundaries and local government responsibilities swing between unilateral and bilateral approaches. Pressure for an effective and efficient local government tier was added to by Federal micro-economic reforms driven by changes in Australia's economy. The legacies of financial problems, poor infrastructure and complex administration are matters that continue to attract unilateral responses from the State. This section considers why the 1989-1993 amalgamation process was so successful. It then looks at a number of changes that flowed from it. Planning reform and water reform are used to illustrate the State's continued tendency towards unilateral change. The unilateral 1997 attempt at forced amalgamation is also touched on between considering the range of changes experienced by local government since 1993. This section concludes by noting the current reform process in train at the time of writing this thesis.

1989-1993: A watershed in reform

Given the number of failed attempts at consolidating local government, the events of 1989 to 1993 resulting in a new Act, a reduction in the number of Councils from the then forty six to twenty nine (see Map 7) and reviews of local and State roles and functions and revenue capacity would seem something of a miracle. This successful round of consolidation was characterised by a negotiated process involving a highly collaborative, consultative, evidence-based and co-operative approach between

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"Local governments work to colour in detail on the big picture", K. Stephenson, *The Mercury*, 8 October 2015: 18

Councils via the Municipal Association and the State government, rather than the stale pattern of State-imposed demands for change.¹⁶⁵ Consultation was over a significant timeframe of around two years and support for the recommendations was sufficiently widespread that they gained bi-partisan support and implementation when there was a change in State government in 1993.

While supported by larger and middle-sized Councils, there had been some dissention from smaller Councils over concerns such as loss of regional identity. This prompted one Member of the Upper House to introduce a Private Member's Bill allowing for political interference via Parliament to change the independent Local Government Advisory Board's recommendations. The defence was "merely representing the interest of smaller councils".¹⁶⁶

The purpose this time was not simply asking Councils to be more effective or economical in service provision. This reform period co-incided with an Australia-wide broader micro-economic reform agenda, contributing not only to local government changes, but also to overall reform of Tasmania's public sector capacity for efficiency and effectiveness, "irresponsive of who is responsible for the delivery" of services.¹⁶⁷ For the Federal government it needed local government to play a critical role in regional development and structural adjustment and was willing to fund three major local government programs to meet the national agenda.¹⁶⁸ Reminiscent of the 1906/08 reforms when all Mayors were called to two *in-camera* conferences to agree on the contents of a proposed Bill, the process was by consensus with all Councils agreeing to a formal Modernisation Agreement via their peak body with the State Government, creating "a very real sense of ownership,

¹⁶⁵ For policy documents leading up to and as a part of this period of reform, see Tasmania, Parliament 1983, Legislative Council Select Committee, *Local Government Reorganization*, Parl. Paper No. 52, Hobart; *An Analysis of Certain Financial Issues Relating to Local Government in Tasmania*, Municipal Association of Tasmania, 1984; Tasmania, *Tasmanian Employment Summit, Proceedings*, Hobart, 28-29 November, 1989; Tasmania, Local Government Advisory Board, *Inquiry into the Modernisation of Local Government, Issues Discussion Paper*, December 1990, *Staff Transitional Arrangements Discussion Paper*, November 1991, *Modernisation Proposals Paper Part 1*, July 1991, *Indicative Proposals Paper*, December 1991, *Report*, June 1992

¹⁶⁶ P.D. [sic], "Political Chronicle: Tasmania", *The Australian Journal of Politics and History*, 35, no. 2 (1989): 261

¹⁶⁷ Rudi Roodenrys, "Local Government Reform: The Tasmanian Experience" in *Australian Local Government Yearbook 1995*, (North Melbourne: Hargreen Publishing Company, 1994), 28

¹⁶⁸ Brian Howe, Deputy Prime Minister and Minister for Housing and Regional Development, "Introduction" in *Australian Local Government Yearbook 1995*, (North Melbourne: Hargreen Publishing Company, 1994), 3

partnership, responsibility and leadership with a strong mutual commitment to change”.¹⁶⁹ It was followed by a period of equally co-operative reviews surrounding major infrastructure and planning until financial downturns saw a swing back to unilateral change in the events of 1997-98.

This reform attempt was also characterised by how the issue of “community of interest” was understood compared to earlier reform attempts, reflecting the significant changes Tasmania had undergone by the end of the twentieth century. Populations were now more likely to travel intra/interstate and overseas for work and recreation and had the financial capacity to do so. Information communication technologies and a shift from manufacturing to a service economy were changing how communities saw themselves both in Tasmania and globally when it came to cultural and economic interactions. By the end of the twentieth century the flow of ideas and culture no longer favoured the “mother country” of Britain; Tasmanians were opening up to the world.

Gone was the idea that “community of interest” should be the same for one area. Tasmanians could be expected to, and did, accommodate many different communities of interest at township, urban and regional level. The Local Government Advisory Board believed that such changes had “surely undermined the claims of each individual centre of population to be the natural centre of a local community, at least in the government sense.” For this reason the advantages of administrative efficiency and professional expertise found in larger municipal areas would no longer be at odds with social desirability and local “community of interest”.¹⁷⁰

Evidence of change is seen in the successful rise of three local government regional organisations. Earlier attempts at regionalisation prior to the 1989-1993 modernisations were either stillborn in their conception or failed to eventually overcome problems of parochialism in their implementation. Regionalisation as a policy idea in Tasmania found fertile financial support in the regional development policies of the Hawke-Keating Federal governments. Federal policy divided Tasmania into three regions based on the old Telecom area code boundaries.

¹⁶⁹ Roodenrys, “Local Government Reform”, 29

¹⁷⁰ Tasmania, Local Government Advisory Board, *Inquiry into the Modernisation of Local Government. Issues Discussion Paper*, December 1990, p. 25

Combined with the reforms of 1989-1993 and those that followed, the now larger councils are more willing to look outside their municipal boundaries and create relationships with other Councils around shared resources and issues. The co-operation extends to the extent of backing issues that affect some but not all Councils in the shared relationship - a stark contrast to the findings of the July 1988 Tasmanian State Institute of Technology seminar focusing on the costs of parochialism.¹⁷¹ By 2015 resource sharing, sharing of key professional staff and regional advocacy have become common modes of interaction between Councils:

Local government is able to make its own changes and we will call on other levels of government when we need to make changes...It won't be dictated to by State Government or the Upper House...There is already a lot more understanding and discussion about resource sharing and sharing of services...Lots of Councils do interact with their neighbours and share personnel; it is not uncommon.¹⁷²

To be fair, the litany of failed amalgamation attempts does tend to overshadow some significant positive changes that flowed from the 1989/93 experiences. Planning, building and environmental legislation instituted at the time considerably improved control over local areas for Councils. The new *Local Government Act* freed up Councils from the prescriptive powers in the old Act, replacing it with a general competence power. Electoral reforms have contributed to improved participation and wider [representation](#), particularly since the conduct of municipal elections by the Tasmanian Electoral Commission since 1993. The profile of local government was raised by a special inclusion in State Budget documents, compared to earlier years where it only rated a mention either for reform issues or due to special financial arrangements with the Federal government.¹⁷³ Requirements for strategic and asset

¹⁷¹ See for example the reasons behind development of resource sharing agreements in E Ruzicka, *Local Government in Tasmania: Beyond Amalgamation*, (Hons. thesis, University of Tasmania, October 2007); see also joint agreements at Cradle-Coast Authority at <http://www.cradlecoast.com/>, Northern Tasmania Development at <http://www.northerntasmania.org.au/> and Southern Tasmanian Councils Authority at <http://stca.tas.gov.au/> See also Marcus Haward, "Political Chronicle: Tasmania", *The Australian Journal of Politics and History*, 35, no. 2 (1989): 270

¹⁷² "Councils facing big shake-up this year, with water and sewerage reforms. Preparing for the times ahead", *The Examiner*, 2 January 2009: 18. Comments were by Latrobe Mayor Mike Gaffney who was also President of the Local Government Association of Tasmania and Member for Mersey in the Upper House. See also the commentary of the current LGAT President, Mayor Doug Chipman in "Don't knock your Council", *The Mercury*, 31 October 2015: 34

¹⁷³ See for example Tasmania, Parliament 1994, *The 1994-95 Tasmanian Budget and Supporting Information, Budget Paper No. 1*, Government Printer, Tasmania; Tasmania, Parliament 1994, *The 1994-95 Tasmanian Budget and Supporting Information*, Parl. Paper No. 2, Hobart;

planning have considerably professionalised approaches to municipal property. In 2003 a groundbreaking agreement, the first of its kind in Australia, instituted significant financial reforms in the relationship between State and local governments. It resulted in a sort of equalisation of how each tier pays money for taxes, rates and other charges to each other. The only losers were municipalities with significant tracts of Forestry land who gain no rates income. Overall local government benefitted from the abolition of up to \$10 million in State Government levies on councils.¹⁷⁴

Between 1999 and the most recently signed in 2012, Partnerships Agreements have been used to improve co-operation and address strategic issues at bilateral, regional, statewide or tripartite levels. In the first iterations of signing, the Agreements sought to deliver benefits for local communities with State and local government officials starting to work more closely and collaboratively. The most recent Partnership Agreement between the Local Government Association of Tasmania and the State Government recognised the value of such relationships and the role played in improving the relationship and communication and consultation processes between the two tiers of government.¹⁷⁵ In 2000 the Premier's Local Government Council was created to form a high-level forum for discussions between the State and councils on issues of statewide significance and has continued to meet three times a year. Such positive outcomes are overshadowed by how water and sewerage reforms and municipal planning reform have and are being played out, much like earlier unilateral demands for amalgamation.

Tasmania, Parliament 1995, *Budget Paper No. 1. Budget Overview 1995-96*, Parl. Paper No. 1, Hobart; Tasmania, Parliament 1996, *Budget Paper No. 1. Budget Overview 1996-97*, Parl. Paper No. 1, Hobart; Tasmania, Parliament 1997, *Budget Paper No. 1. Budget Overview 1997-98*, Parl. Paper No. 2, Hobart. See also Tasmania, Parliament 1936, *Financial Statement of the Treasurer of Tasmania, the Hon. Edmund Dwyer-Gray, 1936-37*, Journals and Printed Papers No. 23, Sect. 17 (iv)-(v), Hobart; Tasmania, Parliament 2010, *2010-11 Budget Speech*, M. Aird, Hobart, 17 June, 2010. www.budget.tas.gov.au/media/pdf/publications/2010-11_Budget_Speech.pdf Accessed 24 October 2010

¹⁷⁴ Tasmania, Department of Premier and Cabinet, *Statewide Partnership Agreement between Government of Tasmania and Tasmanian Councils on Financial Reform*, Local Government Division, July 2003, 2

¹⁷⁵ Tasmania, Department of Premier and Cabinet, *Governments working together: Second Statewide Partnership Agreement on Communication and Consultation between the State Government and the Local Government Associations of Tasmania on behalf of Tasmanian Councils*, December 2012, 3. See also Tasmania, Department of Premier and Cabinet 2010, "Partnership agreements with local government" www.dpac.tas.gov.au/divisions/lgd/partnership_agreements Accessed 21 October 2010

1997: A return to unilateral amalgamation reform

Local government had to resort again to the use of legal tactics to prevent amalgamations occurring in 1997 when three small councils (Devonport City, Central Highlands and Southern Midlands) challenged forced amalgamations on technical electoral grounds.¹⁷⁶ Despite the lessons of the successful modernisation process of 1989-1993 the State government again attempted to force unilateral change at a time when Tasmania was under severe economic and social stress.¹⁷⁷ Comparatively high levels of debt and taxation severity combined with low growth, declining population, high unemployment and vulnerability through reliance on Federal grants. Tasmania was at a policy crossroad with the State government feeling the need to radically change direction.¹⁷⁸

The Premier released an outcomes-based *Directions Statement* in April 1997. It listed a wide range of policy changes that in its view the State needed to undertake, including a reduction in the number of councils with a commitment to reduce the twenty nine councils created in 1993 to not more than fifteen.¹⁷⁹ A newly re-constituted Local Government Board was directed to consult with the public and deliver a report and recommendation within six months (it took seven).

The idea of “community of interest” was this time defined as follows in the Ministerial Requirements:

...common links and interests between communities and areas should be recognised for the purpose of preventing artificial divisions in those links and interests.¹⁸⁰

In its initial *Discussion Paper*, the Board carefully considered what the term “community of interest” meant, noting “social boundaries (could be) considered more important than geographic boundaries”. Although there was general agreement that a common geographic area and “at least one common interest substantially

¹⁷⁶ Tasmania, Supreme Court of Tasmania Decisions, *Devonport City Council, Central Highlands Council and Southern Midlands Council v Farrell, David (Chief Electoral Officer)* [1998] TASSC 92 (3 August 1998), see <http://www.austlii.edu.au/au/cases/tas/TASSC/1998/92.html> accessed 10 October 2010

¹⁷⁷ Marcus Haward and Ivan Zwart, “Local Government in Tasmania: reform and restructuring”, *Australian Journal of Political Science*, 59 no. 3 (September 2000): 34-48

¹⁷⁸ Tony McCall, “Political Chronicle: Tasmania”, *The Australian Journal of Politics and History*, 43, no. 3 (1997): 433

¹⁷⁹ Tasmania, Department of Premier and Cabinet, *Directions Statement*, “Directions for Local Government”, 10 April 1997, 3

¹⁸⁰ Tasmania, Local Government Board, *1997 Tasmanian Local Government Review. Discussion Paper*, 22 July 1997, 4

shared between the residents of that area” formed the basic elements of the concept, the Board also noted that the concept had changed over time as people’s relationship to locality was no longer strong or exclusive.¹⁸¹ The *Exposure Draft* released for public comment in November 1997 found in public hearings there was little agreement in what the term “community of interest” meant or the significance that should be attached to it. It viewed existing council structures as tending to divide strong common interests so removal of these divisions into larger Councils was a beneficial move.¹⁸² Twenty nine councils would be reduced to nine with the Bass Strait islands retaining their local autonomy.

Three months after the State government released its *Discussion Paper*, the July 1997 Nixon report, *Tasmania into the 21st Century*, was also made public. Nixon’s recommendations went even further, arguing for no more than eight councils and an ongoing re-assessment of local government roles and functions.¹⁸³

Local government responses to the 1997 *Exposure Draft* recommendations included statements saying it would “never receive the full endorsement of significant elements of local government as being an objective and transparent piece of work”.¹⁸⁴ The Review process was described as fundamentally flawed with prescribed outcomes even before the evaluation process had commenced. Compared to the 1989-1993 process, consultation was only over six months, Councils were given just eighteen days to comment on the *Exposure Draft* and the Board only allowed itself four days to comment on council responses. The process was seen by a group of Southern Councils as “coercive,” and “a total affront to democratic principles”.¹⁸⁵ The promise of elector polls from the Minister for Local Government to gauge public acceptance of amalgamations was criticised for their timing and urgency. The Local Government Board wryly noted in January 1998 in delivering its *Final Report* it was “somewhat of an understatement” to say its work was affected by

¹⁸¹ Tasmania, Local Government Board, 1997 *Tasmanian Local Government Review. Discussion Paper*, 22 July 1997, 24, 26

¹⁸² Tasmania, Local Government Board, 1997 *Tasmanian Local Government Review. Exposure Draft*, November 1997, 24-25

¹⁸³ Tasmania, Local Government Board, 1997 *Tasmanian Local Government Review. Discussion Paper*, 22 July 1997; Tasmania, *Tasmania into the 21st Century*, Joint Commonwealth-State Inquiry into the Tasmanian Economy (Hobart, July 1997), 70-78

¹⁸⁴ Hobart City Council, Glenorchy City Council and Clarence City Council, *Joint Response to the 1997 Tasmanian Local Government Review Exposure Draft Report*, December 1997, 4

¹⁸⁵ Hobart City Council, Glenorchy City Council and Clarence City Council, *Joint Response to the 1997 Tasmanian Local Government Review Exposure Draft Report*, December 1997, 4, 7

a backdrop of “turbulence and controversy”.¹⁸⁶ The Nixon Report and the public responses to it may have made the *Directions Statement* look less challenging yet there was no evidence of public desire to support further amalgamations as the now four year old Councils and their communities were still working through the effects of 1993 boundary changes.¹⁸⁷ The outcomes of seven out of nine elector polls conducted in February overwhelmingly opposed amalgamations.¹⁸⁸

The Board noted the “overwhelming” financial evidence should amalgamations occur to both local government and at the State level on economic, social and environmental grounds and publicly criticised councils of misinformation, leading to calls from local government for sacking.¹⁸⁹ As 1998 progressed, pressure to resist boundary changes mounted across a number of Councils. As an independent authority, the Board found that the Minister could, via the *Local Government Act*, be requested to reconsider its January 1998 *Final Report* recommendations. Boundary adjustments were requested and the Board noted “it had been persuaded to make a number of changes to council boundaries” included in its Principal Recommendations.¹⁹⁰ It still stuck to the recommendation of eleven councils and left it to the Minister to make any further changes. On June 22 the government announced a reduction to only fourteen councils in an attempt to accommodate areas of greatest opposition in the community.¹⁹¹ These changes still did not satisfy rural and urban fringe councils and by this time they had enlisted the support of Opposition parties and Members of the Legislative Council. The State government chose to use regulations to enact amalgamation changes to take place at the upcoming local government elections under the *Local Government Act*, thus avoiding a hostile Parliament. This approach was technically flawed, a fact three Councils used in their successful Supreme Court challenge to halt the elections based on the proposed new boundaries.

¹⁸⁶ Tasmania, Local Government Board, 1997 *Tasmanian Local Government Review. Final Report* Volume III, January 1998, Preface.

¹⁸⁷ Tony McCall, “Political Chronicle: Tasmania”, *The Australian Journal of Politics and History*, 43, no. 3 (1997): 439

¹⁸⁸ *The Mercury*, 4 February 1998: 1-2

¹⁸⁹ *The Mercury*, 7 January 1998: 2

¹⁹⁰ Haward and Zwart, “Local Government in Tasmania”: 42

¹⁹¹ Tony McCall, “Political Chronicle: Tasmania”, *The Australian Journal of Politics and History*, 44, no.4 (1998): 611

The Liberal government missed the opportunity to appeal the decision when it was swept from office in August 1998. In part, the economic state of Tasmania and opposition to sales of state infrastructure contributed to the loss of office. Certainly the local government reforms were not popular either and contributed to voter refusal to re-elect the Liberal government. The new Labor government abandoned forced amalgamations and delayed the elections until the following March. It preferred instead a policy of voluntary changes underpinned by efficiency reforms and introduced the Partnership process to smooth over relationships with Councils around the State.

Planning and water and sewerage reforms: “trampling over the good work of our forefathers”¹⁹²

Unfortunately the positive experiences of amalgamations have not prevented unilateral attempts to force change in related local government areas. Town planning and water and sewerage reforms are two such examples, creating a deal of scepticism at the local government level about State intentions of partnership and collaboration.

A return to town planning reform was marked by initial acceptance. Reforms introduced in 1993 set up a planning system that sought to address statewide issues of economic development through an integrated resource management system. A suite of legislation and policies replaced the Town and Country Planning Commission with a Land Use Planning Review Panel and a Sustainable Development Advisory Council, both under strong ministerial direction.¹⁹³

The Panel inherited one hundred planning schemes then in existence across the State. Even though this was reduced to thirty eight by 2009, the lack of commonality between the schemes created degrees of complication for planners, developers and builders when working across different municipalities. For example, the City of Hobart had three such schemes covering different parts of the municipality to cater to very local and historical conditions.¹⁹⁴ Complaints over the raft of reviews and proposed planning reforms, mounting criticism from developers and a revolving door

¹⁹² Burnie City Council, “Massive Water Price Increase Predicted for Burnie Residents”, *Media Release*, 11 May 2007

¹⁹³ Petrow, “Against the spirit of local government”: 216

¹⁹⁴ See *Battery Point Planning Scheme 1979*, *City of Hobart Planning Scheme 1982* and *Sullivans Cove Planning Scheme 1997*. The *Battery Point* and *City of Hobart* schemes have been merged into the *Interim City of Hobart Planning Scheme 2009* with the *Sullivans Cove* scheme likely to be replaced with the introduction of the Tasmanian Single Statewide Planning Scheme process post-2015.

of planning ministers increased pressure for change.¹⁹⁵ By 2011 the number of planning schemes had dropped to 35 however complaints continued that the system was “convoluted” and there was no consistency in policy with six different planning ministers since 2008.¹⁹⁶

Regional land use had also become a key economic development issue over the ensuing period, with significant changes at the state level administration of planning and the creation of regional land use strategies. A Regional Planning Initiative ensured that regional land use was formally incorporated into the planning system. The current body, the Tasmanian Planning Commission became responsible for the standardisation of planning schemes with consistent statewide templates and provisions. Not content with accepting regional variations, a newly elected Liberal Government then announced a unilateral move towards a single statewide planning scheme in 2014.¹⁹⁷

Whilst all Councils were converting their planning schemes to meet the demands of the Interim Planning Scheme, the State government became impatient with the time taken to assess Interim Schemes. It decided to cut short consultation processes, declared all schemes as Interim and instituted a Planning Reform Taskforce dominated by planners, building and related industry bodies and headed by an ex-CEO of the Tasmanian branch of the Property Council of Australia. In 2016 planning legislation amendments are in the process of creating one single statewide planning scheme with a claimed eighty per cent commonality across the State by 2017 “a year ahead of (the Liberal government’s electoral) schedule”.¹⁹⁸

Planning reform is still playing out however the Minister is at pains to assure local councils they will retain the ability to propose unique planning controls for areas of special values, that elected representatives will continue to act as planning authorities in their area and that local variations in planning schemes will remain to ensure protection of local character.¹⁹⁹ While still exhibiting unilateralist tendencies, the current State government’s approach to planning reform is still careful to not remove

¹⁹⁵ “Preparing for the times ahead”, *The Examiner*, 2 January 2009: 9

¹⁹⁶ “Massed plea on planning”, *The Mercury*, 14 April 2011: 15

¹⁹⁷ Tasmania, Tasmanian Planning Commission, *Annual Reports* 2011-2012, 2012-2013, 2013-2014

¹⁹⁸ Tasmania, Department of State Growth, *Tasmanian Planning Scheme Fact Sheet*, Planning Reform Taskforce, September 2015; “Planning reform has been distorted by emotive rhetoric”, *The Mercury*, 31 October 2015

¹⁹⁹ “Planning reform has been distorted by emotive rhetoric”, *The Mercury*, 31 October 2015

the appearance of all local control, despite the fact the Interim Schemes lack a great deal of capacity to manage specifically local planning issues and contain mandated provisions.

As part of the 1993 Modernisation infrastructure reviews water and sewerage came under the spotlight for urgent reform.²⁰⁰ Despite the problems identified, ten years later, twenty three Tasmanian towns were on permanent “boil water” alerts impacting not only health and wellbeing but also reflecting badly on the much needed tourism dollar. Low levels of compliance with standards were identified for Level 2 wastewater treatment plants. Expectations of sewerage service were not being met for around fifteen thousand urban fringe properties. Even with the amalgamations into larger municipal entities and access to more professional and technical staff, half of the service providers had not undertaken asset condition assessments with seventy percent lacking strategic asset management plans. To fix the problems and meet increasingly strict standards over the period of 2007-2017 it was calculated up to \$1 billion would be needed – monies way beyond what local government could reasonably raise within the existing water and sewerage authorities.²⁰¹

The State government decided to act in 2007 by announcing it would unilaterally remove water and sewerage from the direct control of Councils into a single statewide model in order to fund what it calculated as \$825 million needed for investment. With a Government tactic of describing the answer and setting time frames that excluded any meaningful input from councils and the wider community, councils reacted badly. In the words of one Council, the reform was “trampling over the good work of our forefathers” with predictions of doubling of the price of water.²⁰² Given a number of Councils earned income from their water and sewerage activities, the reform was calculated to financially impact on council and community works this income had previously funded and so would likely threaten ongoing viability, let alone justify another push for amalgamation. With the State pushing for a single state entity, Councils responded by arguing for three regional water and

²⁰⁰ Tasmania, Tasmanian Roles and Functions Committee, *Water Sewerage and Drainage Review, Final Report*, London Economics, September 1995

²⁰¹ Tasmania, Office of the Tasmanian Economic Regulator, *Tasmanian Water and Sewerage State of the Industry Report 2007-08*, iii-iv

²⁰² Burnie City Council, “Massive Water Price Increase Predicted for Burnie Residents”, Media Release, 11 May 2007

sewerage authorities aligned to existing council regional bodies and lobbied Legislative Council members heavily to put their case:

There is no doubt, from many of the questions that honorable members asked the Treasurer over (eighteen months), that over a period of months I think the Treasurer was getting the message that that (a single entity) may not be achievable for lots of reasons. I think my first inkling of a change of heart was at a Property Council forum ...in Hobart where the Treasurer was one of the speakers and I think it is fair to say he took the wind out of the sails of (the CEO) of the Local Government Association, when he stood up and did a back-pedal and offered the carrot of an opportunity for perhaps three regional entities...to his credit the CEO of the LGAT stood up and delivered his speech with a bit of fire and passion, anyway, just so the message was passed back through Treasury that local government is not going to lie down, that they are to be treated as a partner, which this Government had mooted for nine years in partnership agreements and, as such, they had to be brought on board as a partner.²⁰³

There were also significant concerns given the privatisation examples of other States as a response to financial difficulties, a single state entity for water and sewerage businesses was open to being sold off, although the Treasurer when introducing the Bill to the Legislative Council stated the government had no intention of or interest in privatisation.²⁰⁴ In debating the legislation Legislative Councillors noted the significant input of local government and its preference for a regional model which protected Council assets from privatisation:

This is the model that has been agreed on by the councils of Tasmania. It is their right, they are elected by the people in their communities and some of us know what a privilege to serve on local government. I believe it is our role in this place to respect the wishes of local government....²⁰⁵

...there has been a firm commitment to ensure that privatisation cannot and will not occur.

Three regional water and sewerage authorities plus a common services provider commenced in July 2009 - Ben Lomond Water, Cradle Mountain Water and Southern Water - with responsibility for control, ownership and operation within their regions. Despite price-capping, reform did result in increased costs for water and sewerage creating such widespread dissatisfaction that both the State Labor

²⁰³ Tasmania, Legislative Council 2008, *Hansard*, 16 April 2008, Part 1, pp 1-28, (S. Smith MLC)

²⁰⁴ *Ibid.*, pp 1-28, (M. Aird MLC)

²⁰⁵ *Ibid.*, Part 3, pp. 75-135, (S. Smith MLC)

government and the Opposition agreed to a Select committee review in 2010 chaired by an Opposition MP.²⁰⁶ The Labor government by this time thought:

...the water corporations should be fully fledged Government Business Enterprises, 100 percent owned by the Government and taxpayers and accountable to Parliament...(the reforms) cost the Government, it's why we are in minority government now...People didn't understand the changes, all they understood was the bills they got in the mail...And there is nothing like the hip pocket to affect the vote.²⁰⁷

The review concluded a single entity was the better option, Councils concurred because of the problems experienced through to the way the regional bodies were constituted and TasWater came into being the following year.

As these two examples illustrate, where it has the momentum the State is willing to use unilateral methods to force local government reform. Curiously, it still believes that delivery of such economically and socially important State-wide services should be at the local level, although that means it can continue the process of indirect taxation via ratepayers. Wealthier urban councils are then indirectly subsidising the poorer councils still attempting to catch up with years of unfunded infrastructure provision.

Further attempts at municipal reform

At the time of submitting this thesis in March 2016, local government was again going through a process of amalgamation discussions unilaterally imposed by the State. Successive Labor and Liberal governments since 1993 have attempted to get municipalities to voluntarily amalgamate. On the one occasion this was investigated, problems of financial capacity of a new larger rural council prevented the change occurring. Since then the State has steadily cultivated the reform debate by producing a series of reports on the need for local government to change to meet State government economic objectives, on how mergers could take place and on the role of local government.²⁰⁸ Local government responses in this period of debate

²⁰⁶ "Water Bills tipped to soar", *The Mercury*, 10 February, 2011; Tasmania, House of Assembly, *Select Committee Report on Tasmanian Water and Sewerage Corporations*, Parliamentary Paper No. 4, 2012

²⁰⁷ "Message to voters lost in sewerage", *The Mercury*, 23 September 2010: 2

²⁰⁸ In terms of economic objectives, see for example Tasmania, Local Government Division 2010, *Local Government Sustainability Objectives and Indicators Consultation Paper*, Hobart, August 2010; Tasmania, Tasmanian Roles and Functions Review Committee 1996, *Roles and Responsibilities of State and Local Government, Volume One: The Final Report*, Hobart, 31 July 1996. In terms of mergers, see Tasmania, Local Government Board 2009, *Guidelines for a review into a potential voluntary merger between the Break O'Day and Glamorgan-Spring*

vary from accepting the need for bigger councils to preferences for resource sharing and regional co-operation.²⁰⁹ In 2016, the Minister instituted a process to effectively make municipalities consider capacities for amalgamation. These events warrant a further research project in itself and will only be lightly touched on in this thesis.²¹⁰

Conclusion

The general competence period is marked by both unilateral and bilateral attempts at municipal boundary reform and changes in to how services are delivered. The bilateral municipal boundary change was markedly successful and the new *Local Government Act 1993* well supported across the State given the consultative process that was taken. A further unilateral attempt, as part of a response to the impacts of serious global economic problems in Tasmania failed in 1997. After this the State has taken the approach of dealing with municipal services on a case by case basis and successfully legislated for changes that either remove control from local government or lessen its local influence. These reforms are ongoing. This chapter concludes in the next section with a short attempt to make sense of local government responses to consolidation.

Bay Councils, Hobart, July 2009; Tasmania, Department of Premier and Cabinet 2009, *Financial aspects of the voluntary merger of the Glamorgan Spring Bay and Break O'Day Council. Final Report*, Hobart: KPMG International Government Advisory, 28 October, 2009; Tasmania, Local Government Board, 2009, *Local Government Board, Principles for Voluntary Mergers. Regional Council Workshop*. Powerpoint. Hobart, December 2009; Tasmania, Local Government Division 2009, *Voluntary Mergers: Process, Information and Issues*.

Considerations for Councils. Powerpoint. Hobart, December 2009

²⁰⁹ “Coastal mayors discuss resource sharing”, *The Advocate*, 8 September 2015: 19; “Council keen on resource sharing talks: Amalgamation model sought”, *The Examiner*, 10 September 2015: 7; “Amalgamations to be examined”, *The Mercury*, 14 January 2015: 11

²¹⁰ Tasmania, Local Government Board 2009, *Report on a Potential Merger: Break O'Day and Glamorgan Spring Bay Councils*, October 2009, *Guiding Principles for Voluntary Mergers of Tasmanian Councils. Consultation Paper*, Hobart, November 2009; Tasmania, Local Government Division 2008, *The Partnership Agreements Program. The first ten years, the next ten years. Report*, Hobart, December 2008, *Role of Local Government: Local Government Role Assessment Final Report*, August 2014, “Minister Gutwein’s PowerPoint Presentation for Regional Meetings” at http://www.dpac.tas.gov.au/_data/assets/pdf_file/0008/248246/Peter_Gutwein_MP_Minister_for_Planning_and_Local_Government_PowerPoint_Presentation_at_Voluntary_Council_Amalgamations_Regional_Meetings_Feb_2015.pdf Accessed 27 November, 2015; Tasmania, Premier’s Local Government Council 2010, *Discussion Paper. Sustainability Objectives and Indicators Project*, Hobart, May 2010

Section 4: So how can we make sense of local government responses to consolidation in Tasmania?

Introduction

The preceding sections outlined three periods of local government initiation and consolidation since settlement in Tasmania. Amalgamation and other reforms have shifted between unilateral and bilateral attempts to alter the roles, responsibilities and identity of Tasmania's local councils with varying success in implementation. The history of consolidation is one of constant reform. In trying to make sense of it all, it begs the question of the presence of local government to start with, whether it was flawed in its execution and its relevance in the Australian Federation. This section concludes by attempting to make some sense of responses to continual change processes and the historical responses of local councils to such changes. Finally, it will briefly draw on such historical responses to argue the presence of local government beliefs and values. It will build a case for local government beliefs and values.

Why have local government at all in Tasmania?

There is something about local government that makes it important in the minds of most people. De Tocqueville observed it was the strength of people's feelings about values of liberty and the consequent level of investment of public spirit in achieving independence and authority that determined the development of municipal institutions. Unlike Britain, the absence of local public spirit in the Europe of his time ("a frequent subject of regret") was reflected in the lack of municipal development contributing towards disorder and disunity at the national level.²¹¹ So what has local government meant since its inception in colonial Tasmania? Early limited forms of local government based on the English municipal system provided an antidote to the rule of military colonial governors of earlier decades. Unlike Britain where local self-government was considered a right and had existed so long as to be a part of common law and daily custom in dealing with much of the

²¹¹ Alexis De Tocqueville, *Democracy in America*, Vol I, 3rd ed., trans. Henry Reeve (London: Saunders and Otley, 1838), 63-64

country's administration, in Tasmania it was a concession granted by central authority.²¹²

On so small an island with so small a population, why local government at all and why continue with it when Tasmania became part of the Australian Federation? Local government was instituted at a time of economic difficulties and on an island where the supply of services and infrastructure was made more difficult by its geography and sparse rural population. The question then, given the British origins of the island's population post-1803 and early claims to legal and constitutional "birthrights", was whether local self-government was seen more as part of a set of cultural and political norms by local populations, rather than a desired administrative economic measure? In 1898 the Mayor of Launceston was quoted as saying, "wherever they found British people together they would find the first question they took up was municipal government".²¹³ Earlier evidence of wanting to establish such norms can be found in the responses of settlers in 1829 to Lt-Governor Arthur's inquiry in setting up municipal bodies for Hobart Town and Launceston (see Appendix A). Piesse argued for local government as a foundation for Australian Federation:

...and indeed, the only sure foundation which the English-speaking people of the world have discovered for the preservation of the national life they have enjoyed and its future perpetuation and development.²¹⁴

Within such comments is found the idea of local government as a norm in Tasmanian society, as axiomatic as it was in England. Given the early settlers were English and raised in a society where local government was part of everyday life, then it should be no surprise to find these ideas and beliefs when defending against proposed changes the importance of local identity, local representation and local autonomy. There is no evidence to support a proposition that English settlers threw off the ideas and beliefs which sustained their society in England when they arrived in Van Diemen's Land. In later chapters the threads of ideas and beliefs are drawn from England to Van Diemen's Land and they are examined for their persistence in the fabric of Tasmania's local government.

²¹² von Stieglitz, *A History of Local Government in Tasmania*, 59

²¹³ "Municipal Conference", *The Mercury*, 21 January 1898: 3

²¹⁴ "Federation and Local Government. Important Speech. New Measure Fully Explained", *The Mercury*, 7 September 1899: 3

A good idea, but flawed in the execution?

It was the question of responsibility for funding local government that slowed its development post-1856 as a sustainable municipal system. Public works and most local development, e.g. roads and bridges, were subsidised for much of the penal colonial period from the colonial purse. Once these monies and free convict labour dried up, those able to pay were reluctant to raise monies by levying rates upon private property. The reluctance to accept taxation draws back to the attitudes towards taxation in Britain's society and economy at the time of colonisation.

The pattern of city and rural municipalisation reflected the island's geography, population and social structure. It also reflected the individualistic conservative nature of the wealthy settlers who dominated the economic, social and political landscape of the colony. Their antipathy to central government was reflected in the local government institutions that supported their interests in their local area and developed communities from which suitable propertied leadership arose. Given that these elected leaders could also be part of the central government's elected Legislative Council, reforms were repeatedly delayed until financial necessity became overwhelming in the 1890s.

In getting the locals to take up local control, the permissive system was initially a good strategy but flawed in its implementation. Political accommodation and financial problems created problems for island-wide implementation. The permissive approach allowed local government to come into existence but the over-use of this approach ensured a proliferation of statutory bodies. The lack of a comprehensive approach was dogged by the financial problems of managing the island's economy through boom and bust periods. Attempts at reform were resisted because either they ate at local control or listed so wide a menu of roles and responsibilities that not all local bodies were able to take these on either financially or professionally.

Did keeping it after Federation ensure a constant process of reform?

With local government remaining a responsibility of the States post-Federation, what role it was left to play became a matter for the State to decide. The reforms of 1906-1908 ensured a statewide system of municipalisation where a wide range of roles and responsibilities were expected to be undertaken, with local government raising

taxation via rating to relieve the central government's finances. However, the system was more suited to a 19th century Tasmania, rather than a State that had begun to experience significant changes in population, technology, economic development and social changes as it moved into the 20th century.

Successful municipal boundary reform occurred by 1908 through bi-partisan and consultative approaches between State legislators and those elected to various local government authorities. Further boundary and other reforms failed with regional municipal bodies using both their influence in the Legislative Council and/or, later in the twentieth century, legal means to stymie change. Successful modernisation was initiated at the local government level in the late 1980s resulting in the 1990-1993 modernisation and amalgamations. A return to unilateral reform in 1997 saw amalgamation halted with a successful legal challenge from regional municipal councils. Consolidation reforms have continued to current times. However, the system as it currently exists is more suited to a 20th century Tasmania, rather than a State that continued to experience significant changes in population, technology, economic development and social changes as it attempts to engage in a twenty first century global economy and society. The preceding sentence may look familiar but it illustrates the problem of Tasmanian local government reform always being in a state of catch-up.

Since settlement central governments' approach to coping with financial and efficiency problems has been to shift roles and responsibilities to local government in the hope that funding via local taxation would provide relief.²¹⁵ Such central government policies have in effect reinforced a strong sense of local identity both by devolving responsibilities and then failing to ensure sufficient resources and capacity. Where local government has experienced financial and efficiency problems, reform demands from central government have been accompanied by demands for more local taxation rather than central subsidisation. Successive waves of economic depression, World Wars I and II, Federal policies, changes in technology and transportation have all contributed problems for local government in reacting to change. The urban/rural dichotomy of local government has contributed

²¹⁵ The outcomes of such policies have significant financial impacts. See for example B. Felmingham. and B. Page, "National Competition Policy and its Implications for Local Government", *Australian Journal of Public Administration*, 55 no. 2 June 1996: 26-35 and PriceWaterhouseCoopers, *National Financial Sustainability of Local Government*, Canberra: Australian Local Government Association, November 2007

to problems of reform – the needs of the two major cities being very different from small rural municipalities, but the future of the whole being decided with single comprehensive mechanisms driven by central (whether State or Federal) preferences.

Trying to make sense of it all

There is an evident tension between what is important to central government, compared to what is important at the local government level. Such tension appears to be resolved only by sub-optimal political accommodation of non-rational ideas and beliefs. Such ideas and beliefs appear peculiar to a tier of property-based government which is willing to accept less optimum outcomes for the statewide economy in favour of greater importance for local community representation and local autonomy (1858, 1906/08, 1940, 1962, 1997). The central government pattern of behaviour is to demand various local government reforms at times of State financial difficulty and not to accept what it considers as sub-optimal outcomes. This means risking local political backlash at times of financial crisis (1938/40, 1997) and possible electoral defeat.

Since 1997 major parties have publicly exercised a policy of voluntary amalgamation while instituting drip-fed reform measures of local councils' roles and responsibilities and reductions in the numbers of elected councillors. At the same time there is frequent media commentary on the need for fewer councils and encouragement for councils to seek voluntary mergers via a Local Government Board process. In a signal that amalgamation was not the answer to whatever the question was, an attempt to voluntarily merger two large East Coast Councils, Glamorgan Spring Bay and Break O'Day was not proceeded with on the grounds the Board was "not convinced that the potential savings (of amalgamation) would be sufficient to address the issues currently facing the stand-alone councils".²¹⁶ The geographic nature and dispersed population militated against good representation and governance.²¹⁷ One interesting outcome was the development of a set of principles to guide councils in seeking any future voluntary mergers.²¹⁸ This has been superseded by the current reform process, again instituted at the State level, elements

²¹⁶ Tasmania, Local Government Board, *Report on a potential merger: Break O'Day and Glamorgan-Spring Bay Councils*, Hobart, October 2009, 8

²¹⁷ Tasmania, Local Government Board, *Report on a potential merger: Break O'Day and Glamorgan-Spring Bay Councils*, Hobart, October 2009, 8-11

²¹⁸ Tasmania, Local Government Board, *Principles For Voluntary Mergers Report*, February 2010

of which will be considered in a later chapter. It is interesting to note that of the four key outcomes set by the State government in the current “voluntary amalgamation” process, one subscribes to the importance of local autonomy and representation – “preserve and maintain local representation” whereas the previous *Principles* report was solely focused on financial sustainability issues.²¹⁹ This indicates that a persistence of a local government belief and value set is accepted at the central level.

In this chapter, the descriptions of attempts to reform local government focused on institutional behaviour of political institutions as a means of explaining the causes and consequences of political behaviour. Yet it has been difficult to rationally understand resistance to what seem very sensible reforms for the greater good. If explanations for political behaviour centre on institutions, not people, then those people who speak and act on behalf of local government institutions are assumed to be fully reflective of an institution’s beliefs and values. Beliefs and values are rationally vested into “non-people”, that is, institutions. But what are they? Rational observation reveals the institution, as Mill detailed in describing English local government post the 1800s reforms.²²⁰ Yet if people speak or act otherwise to those who have control of rational reform, is the problem then that this evidence is disregarded, as emotive rhetoric, as if of no value? So why are the values and beliefs of local government persistent in debates on local government consolidation?

From observing the written administrative history and media reports of reform attempts, it is clear that unilateral attempts at boundary reform rate little success. Where collaboration and consensus are undertaken, meaningful reforms across the sphere of local government activities can result. Yet in trying to determine why reform is so difficult, it is also clear that State demands for efficiency and effectiveness conflict with local concerns such as “community of interest”, local representation and participation. What gives rise to claims such as one body is unable to look after the divergent interests of a group of communities?²²¹ Or local

²¹⁹ Tasmania, Local Government Division, “Minister Gutwein’s PowerPoint Presentation for Regional Meetings” at http://www.dpac.tas.gov.au/_data/assets/pdf_file/0008/248246/Peter_Gutwein,_MP,_Minister_for_Planning_and_Local_Government_PowerPoint_Presentation_at_Voluntary_Council_Amalgamations_Regional_Meetings_Feb_2015.pdf Accessed 27 November, 2015

²²⁰ John Stuart Mill, *Considerations on Representative Government*, Chapter 15 “Of Local Representative Bodies” in *On Liberty, Representative Government, The Subjection of Women: Three Essays*, (London: Oxford University Press, 1954), 363-380

²²¹ *The Mercury*, 11 July 1888:3

autonomy is more important than economic sustainability?²²² Or the rights of ratepayers superseded those of the central state?²²³

Evidence of this conflict arose from observations made during earlier field research in Tasmanian local government post the 1997 reform attempts.²²⁴ Participants would express acceptance of the inevitability of local government amalgamation in line with State government policy of the day. It was expected they would act to implement the central policy of voluntary amalgamations but this was not the case. The Mayors and General Managers then responded differently by engaging in collaborative behaviours with adjacent councils. By removing the agency for action from the centre to local government, their beliefs and values on what was more important for their communities became paramount in their behaviours. Attempts at explaining why included the desire to preserve local identity and autonomy. This suggested that while the State has a head of power to legislate the institutional form of councils, it cannot guarantee behavioural compliance with central expectations. This also suggests evidence for the persistence of beliefs and values at the local level centred on local identity, local representation and participation.

So why does central government continue to demonstrate from time to time an incapacity to understand or appreciate or give sufficient weight to what matters at the local level? And does this contribute to the decline of local government in Tasmania by demanding larger and larger municipal structures and removing key roles and responsibilities to non-elected authorities?

Is it because what local government means has been differently defined or understood over time? Has why local government matters meant different sets of ideas and beliefs and understandings of roles and responsibilities? If why it matters has changed over time, have local and State moved along the same timeframes of understanding or is consolidation resistance a matter of each tier thinking out of sync?

²²² “Fair and Impartial. The Municipal Conference”, *The Advocate*, 1 November 1920: 2. See also “Labor Conference”, *The Advocate*, 7 July 1924: 4, “Municipalities. Proposed Amalgamation”, *The Advocate*, 15 October 1924: 5

²²³ “Waratah’s Status Will Not Be Affected. Assurance Given by Chairman”, *The Advocate*, 24 February 1939: 5

²²⁴ E. Ruzicka, *Local Government in Tasmania: Beyond Amalgamation*, (Hons. thesis, University of Tasmania, October 2007)

The dominant theme in describing Tasmanian local government has been is in terms of failure and always needing to be rescued through various reforms – usually reforms that suit central policy demands. Iterative historical and constitutional reassessments can reinforce policy assessment as failure and needing reform. Subsequent policies are more likely to address the concerns of failure as central decision-makers see them. Chapman observed in 1997 that:

A strong local government system can only be achieved if the state government and public service exercise restraint in their dealings with councils. It is relatively easy in a state the size of Tasmania to gain support for the argument that it all could be done more efficiently and at lesser cost by the one body, or at most two or three. Quite often state officials seek to denigrate the competence of their local counterparts by retaining unnecessary control or direction.²²⁵

If policy settings are predicated on different viewpoints, how frustrating must it be then when any central understanding of what local government means to people in the sector does not match up with response to policy reform? Having policy tools that can sync policy thinking in real time would be a useful adjunct to the policy toolkit.

If local government really matters to State government, clearly, rational policy tools based on quantitative measures are failing to achieve the sorts of successful reforms where both tiers feel they have ownership, are in partnership, take responsibility for and show leadership with a strong mutual commitment to accepting change. In the struggle to make sense of it all, the historical record provides evidence of local government beliefs and values that are persistent and consistent around the ideas of local identity, local representation and local autonomy. How then should we acknowledge these and give them validity in consolidation debates?

Conclusion

Tasmania's local government has been in a constant state of change for so long that it is difficult to make sense of why it is still happening. Whether it was a good idea for the island or not, its implementation is best characterised as always trying to catch up to the demands of a changing world and the changing policy demands of central (both State and Federal) government. In this sense, it is easy to perceive local government as being in a constant state of policy and institutional failure. The

²²⁵ R. Chapman, *Submission to Local Government Board Review of Council Boundaries*, June 1997, 2

existence of local government beliefs and values appears to be largely ignored in rational consolidation debates yet the historical records indicates they form the basis of resistance to amalgamation and other reforms. Issues of local identity, local representation and local autonomy are repeatedly raised in the historical record, which suggests local government beliefs and values need further examination to understand their impact in consolidation, particularly amalgamation debates.

CHAPTER 2 CONCLUSIONS

The preceding four sections outlined three periods of local government introduction and consolidation. It attempts to make some sense of what appears to be a constant set of central demands for change. The first section described the problems of local government introduction and the consequent slow to take off in the colony outside of the then towns of Hobart and Launceston. Rural municipalisation was permissive in character and territorially limited to populated areas, resulting in a plethora of increasingly expensive, duplicated and inefficient local institutions unable to provide the services demanded of them, a situation exacerbated by economic downturns.

In Section 2 statewide municipalisation in 1906/07 sought to address these issues through a prescriptive form of local government. This form lacked the flexibility needed to cope with changing conditions into the twentieth century when most Councils faced financial problems in meeting demands for services. Unilateral central government attempts at reform through the nineteenth and twentieth century were resisted based on fears of loss of representation, loss of services, and loss of community identity. Local government made full use of parliamentary relationships and legal challenges to stymie reform where able.

The period from 1993 onwards described in Section 3 is characterised as general competence for municipalities, a hybrid mix of prescription and permissiveness. This legislative change enables councils to act with a significant degree of flexibility and innovation, although not to the extent they were able in the permissive period.

Section 4 attempted to make some sense of local government responses to consolidation, particularly amalgamation. Throughout the historical record for Tasmania, local concerns of community, identity, autonomy, representation, participation and local leadership are challenged by central government rational policy demands for efficiency and effectiveness. Given that the historical record points to a recognisable set of local government beliefs and values and their impact on debates over various reforms, this suggests further examination to understand such impacts over time. As such beliefs and values appear to be excluded from rational debates Chapter 3 on interpretive theory discusses another means of considering this problem.

PART I: APPROACHING THE PROBLEM

CHAPTER 3: INTERPRETING LOCAL GOVERNMENT

CHAPTER 3 INTRODUCTION

This chapter contrasts institutional and interpretive approaches and their usefulness in understanding the problem of resistance to reform in Tasmania's local government. It is divided into three sections that consider what we think we know about local government, how we can find meaning and using traditions.

In Section 1 the starting point to the problem is one of understanding what local government means as a way of explaining people's behaviour. Given the nature of local government, does an institutional approach provide all the answers? What is the Australian context for a meaning of local government and what do we think we mean when we say "local government"? The limitations of just using an institutional approach to understand resistance to reforms such as amalgamations and the problems with various methodologies are briefly considered before outlining an institutional understanding of what local government means. Are there further problems when local government is explored in an Australian context? In seeking a definition of what local government means, questioning assumptions about behaviour indicate there is more to local government than just its institutions.

In Section 2 an interpretive approach is then explored for the value of how it turns the gaze from institutions to the people that interact with them and the beliefs and values that they bring to the practice of institutions.

Section 3 considers tradition and dilemma and proposes their use in finding meaning for Tasmanian local government. Three traditions are proposed – localism, voluntarism and representation.

Section 1: What do we think we know?

[W]herever there exists the possibility of interpretation in principle, there it should be completed; that is, the mere relating of human ‘action’ to a rule of experience that is simply empirically observed, be it ever so strict, does not suffice us in the interpretation of ‘human action’.¹

I suppose it is tempting, if the only tool you have is a hammer, to treat everything as if it were a nail.²

Introduction

Contrasting institutional and interpretive approaches is a useful means of finding out the gaps in understanding of each approach. One considers the institution with the assumption people within it all share the institution’s ideas and beliefs. The other considers that individuals bring to an institution their own ideas and beliefs, and that challenges institutional practice and meaning. In understanding local government, the historical focus has been on institutions and in this sense there is then a gap in understanding what “local government” means to the people who form part of it. This section considers local government and then what it means in an Australian context. It finishes with shared assumptions about local government.

An institutional viewpoint – can it tell us everything we need to know?

An institutional approach can explain the development of local government institutions through the values of liberal democratic norms originating in the English Westminster system. However in theorising about this, within this system Mackenzie argues there “is no theory of local government” - no normative (ideal, standard, moral code, conduct bound by use of sanctions) or positive (that which exists or can be observed) general theory of local government from which testable hypotheses it can be derived to explain what local government is.³ In other words, there are no sets of practical laws or norms that explain local government’s nature.

¹ Max Weber, “Roscher und Knies und die logischen Probleme der historischen Nationalekonomie” in *Gesammelte Aufsätze zur Wissenschaftslehre*, ed. Johannes Winckelmann 1-145 (Tuebingen: J.C.B. Mohr, 1968 [originally 1922]), 69 quoted in Ralph P. Hummel, “Stories Managers Tell: Why they Are a Valid as Science”, *Public Administration Review*, 51, no. 1 (January/February 1991): 34

² Abraham H. Maslow, *The Psychology of Science*, (New York: Harper & Row, 1966), 15

³ W.J.M. Mackenzie, *Theories of Local Government* (London: The London School of Economics and Political Science, 1961), 5

Yet political institutions contain a normative element. How is this then resolved? If we say there are no norms in local government does that imply its institutions are some sort of tabula rasa on which anything can be written to suit central government desires and needs? The idea of any theory of local government, of the ideas and beliefs that operate within it, becomes ephemeral, unbounded and contested, especially when examining local government in different institutional settings. If there are norms, can using institutional methodologies to resolve the nature of local government provide any answers?

The key point is that any institutional explanations for political behaviour centre on institutions, not people. Systematically describing and analysing specific events, eras, people and institutions in the development of local government to explain and understand behaviour will still be facts about the institutions and be left to speak for them.⁴ Elected participants of local government institutions are assumed to be fully reflective of the council's beliefs and values. Reaching any conclusion of what local government means has the problem of a starting point for observation and analysis of institutions. For example, the concept of *modern* local government in Britain apparently did not begin to exist until 1832 and it was reinvented/ rediscovered as part of the English Constitution once debates over its reform started to take shape.⁵ These debates continue today in Britain with what appears to be a cycling between central and local control over functions, influenced by shifts in economic and public policy governance from Keynesian to new public management to Third Way. The changing shape of institutions creates problems for consistent conclusions derived from observation and description of past local government development of local government in one location, let alone transferring that meaning to another. If we argue that local government in Australia has an institutional history rooted in the values of the British Westminster system, have those values continued to have relevance for local government in Australia's Federal system?

It might also be possible to argue that tracing the development of local government law and constitution can provide a foundation for understanding the nature of local government. This is problematic. The British Constitution is not one single document nor was there in 1832 any definitive document or set of rules for local

⁴ R.A.W. Rhodes, "The Institutional Approach" in *Theory and Methods in Political Science*, eds. David Marsh and Gerry Stoker, (Houndsmill: Macmillan Press Ltd, 1995), 44

⁵ Mackenzie, *Theories of Local Government*, 7

government. There are a number of Acts of Parliament that focus on reform and centralisation of powers and services from 1832 onwards but those are specific to the problems of that country. Prior to this, as Webb and Webb found in their comprehensive study of local government in Britain, there is a multiplicity of Acts, Charters and constitutions in place for its administration, developed to suit local conditions through various forms of Courts, Councils and Vestries dating back to the 1600s and before.⁶ How comparable are they in providing an understanding Tasmania's local government nature? The comprehensive study of Australia's local government in the 1980s showed a similar historical propensity for diversity not only between States, but also within them, in the legal and constitutional shaping of local government institutions.⁷ Where political behaviour does not meet the rules and procedure of local government institutions, it can suggest discrepancies between institutional and people's beliefs and values, yet the focus is on prescription of people's behaviour through formal organisational rules rather than explanations for people's behaviour.

A comparison of historical municipal developments might also yield some meaning in explaining political behaviour around reform. It would enable an understanding of the evolution of institutions and their operations. As political institutions have a monopoly on coercive power, comparing political institutions provides similarly comparative descriptions of political behaviour.⁸ The question is whether any historical comparisons of local government can be reconciled. Unlike Britain, in Australia there is no "long history of local independence or survivals of special privilege, distinctive organization, localised sources of income or particular responsibilities."⁹ Local government developed over only 200 years since settlement in 1788, and less so in other States, especially Tasmania. Yet there are significant differences in historical development across Australian States highlighted in the previously mentioned ACIR study. This study illustrates the difficulties from which

⁶ Sidney and Beatrice Webb, *English Local Government*, 11 Vols, (London: Frank Cass and Co. Ltd., 1963)

⁷ J. Power, R.L. Wettenhall and J. Halligan, *Local Government Systems of Australia*, Advisory Council for Inter-government Relations, Information Paper No. 7, (Canberra: Australian Government Publishing Service, 1981)

⁸ Rhodes, "The Institutional Approach", 45-46

⁹ R.N. Spann, R Atkins, R. Else-Mitchell, T.H. Kewley, K.W. Knight, B. Moore, R.S. Parker and Ors., *Public Administration in Australia*, (Sydney: Government Printer, 1973), 221

to draw definitive conclusions on the nature of local government.¹⁰ Again, it is the institutions and their structural development that is made paramount, with the assumption that the people involved deferred to the ideas and beliefs of central governments in shaping local government institutions.

An Australian context

In addition to some of the problems noted earlier, understanding what local government means in an Australian context is hampered by both its near constitutional invisibility and its complexity. Local government's existence is a puzzle in the Australian Federation. On one hand it is seen as "somehow closer to the people, providing a more truly representative and responsive institution".¹¹ It is also conspicuous either by its absence in current political science/public policy academic references, or only briefly mentioned, albeit it has proved useful for various Federal governments to bypass politically adverse States over infrastructure funding and in other policy areas, and for penurious States to delegate various functions.¹² Defining local government institutionally becomes a search for characteristics that differentiate it from State and Federal governments.

Chapman's later exploration of Australia's policy process in its federalist system highlights the problem of locating authority for local government by its absence in any discussions.¹³ If authority, as part of the meaning of local government, is held at the centre (either State or Federal), local government institutions are reduced to

¹⁰ Power, et al., *Local Government Systems of Australia*, 7-22

¹¹ R.J.K Chapman and Michael Wood, *Australian Local Government: The Federal Dimension*, (Sydney: Allen & Unwin, 1984), 14

¹² For example, see R.G. Stewart and I. Ward, *Politics One*, (South Melbourne: Macmillan Education Australia Pty Ltd, 1992); J. Summers, D. Woodward and A. Parkin, *Government, Politics, Power and Policy in Australia*, 7th ed., (Frenchs Forest: Pearson Education Australia Pty Limited, 2002); or David W. Lovell, Ian McAllister, William Maley and Chandran Kukathas, ed., *The Australian Political System*, 2nd ed., (South Melbourne: Addison, Wesley Longman Australia Pty Limited, 1998). D. Jaensch, *The Politics of Australia*, 2nd ed., (South Yarra: Macmillan Education Australia Pty Ltd, 1997) contains a half column reference to the Whitlam Labor government's New Federalism and local government grants. Hugh V. Emy, *The Politics of Australian Democracy*, (South Melbourne: The Macmillan Company of Australia Pty Ltd, 1974) provides the same context concentrating on the Whitlam Labor government's Department of Urban and Regional Development proposed reforms 1972-1973. Further brief mention is in connection with failed constitutional referendums. In G. Singleton, D. Aitkin, B. Jinks and J. Warhurst, *Australian Political Institutions*, 6th ed., (Longman Pearson Education Australia Pty Limited, 2000), local government rates effectively 1.5 pages out of 366, focused on finance and function, and scattered references to constitutional issues.

¹³ Ralph Chapman, "Federalism, intergovernmental relations and the Australian policy process" in *Governing Federations: Constitution, Politics, Resources*, ed. Michael Wood, Christopher Williams and Campbell Sharman, 54-63 (Sydney: Hale & Iremonger, 1989)

nothing more than a convenient administrative tool for delegated central government policies. Describing local government as an institutional “third tier” implies some form of legitimacy and equality. In the Aulich and Pietsch historical comparative analysis of the 1890s Constitutional Conventions, they concluded local government was not deliberately excluded in forming national government but that the colonial States were anxious to neither surrender powers to a national government nor have their own importance reduced by a strong local government sector.¹⁴ The constitutional absence of local government institutions leaves it vulnerable to centralising demands of efficiency and effectiveness. Constitutional recognition and allocation of powers remains a problem and a rallying point for the local government lobby.¹⁵ The State governments continue to oppose constitutional reforms. For a range of reasons, the population of Australia has been reluctant to grant constitutional recognition for local government institutions at national referendums, although recent polling revealed 61% participants in a national survey supported recognising and protecting its existence in the Australian Constitution.¹⁶ The lack of constitutional recognition of local government as “accepted, effective and viable” by either State or Federal governments challenges the idea of valid authority.¹⁷ As a result, only the Federal government States and Territories have heads of powers under the Australian Constitution. Local government is relegated to a “creature of the States” status implying local government is as much as what State Parliaments allow. Australia’s local government:

...has always been primarily an administrative arrangement devised by colonial and then by State Governments to deal with specific local tasks. At no stage has there been any general demand for local self-government, nor have the conditions ever been favourable to its easy growth.¹⁸

Local government has taken on different roles in the States and Territories of Australia. It has fragmented functions even between various municipalities giving

¹⁴ Chris Aulich and Rebecca Pietsch, “Left on the Shelf: Local Government and the Australian Constitution”, *Australian Journal of Public Administration*, 61, no. 4 (December 2002): 14-15

¹⁵ See Australian Local Government Association, “President’s Update. Constitutional Reform Update” at www.alga.asn.au/constitutionalrecognition/ last updated 15 February 2010. Accessed 12 March 2010 and current policy position at <http://councilreferendum.com.au/> Accessed 26 November 2015

¹⁶ See Australian Local Government Association, “President’s Update. Constitutional Reform Update” at www.alga.asn.au/constitutionalrecognition/ last updated 15 February 2010. Accessed 12 March 2010

¹⁷ Paul Finn, “Myths of Australian Public Administration” in *Public Administration in Australia: a watershed*, ed. John Power, 41-56 (Sydney: Hale & Iremonger Pty Limited, 1990)

¹⁸ Spann, et al., *Public Administration in Australia*, 221

rise to confusion over responsibility between local, State and Federal spheres for provision of services.¹⁹ In their overview of local government in Australia for the Advisory Council for Inter-government Relations (ACIR), Power et al commented that the “constitutional differences, as well as differences in the spread of population, clearly affected the development of local government” in the States of Australia.²⁰ Each State’s development has also played a part in shaping institutions, such as Tasmania’s comparatively extended role as a military prison and its relative geographic isolation.

The nature of local government institutions in Australia also depends on the relationships between the Federal and State governments. As one example, road infrastructure was once a State responsibility largely delegated to local councils. In 1923 Federal road legislation started to change this relationship.²¹ By the 1970s, through Federal Labor’s disenchantment with largely Liberal government States, local government’s role in infrastructure development changed with the flow of monies via the Grants Commission. Federal Liberal’s Roads to Recovery funding and Federal Labor’s direct infrastructure payments to Councils highlight how useful local government has become for bypassing State infrastructure spending policies and priorities.²² As another example, with the creation of the Australian Council of Local Government (ACLG) in 2008 local government now operates within an intergovernmental system and is recognised as a governing body with a political nature aided with \$8M funding of a new local government think-tank, the Australian Centre for Excellence in Local Government.²³ With funding bypassing the States to

¹⁹ See Australia, House of Representatives, Standing Committee on Economics, Finance and Public Administration, *Rates and Taxes: A Fair Share for Responsible Local Government*, AGPS, Canberra, October 2003, as a discussion of the problems created by such confusion.

²⁰ Power, et al., *Local Government Systems of Australia*, 7. See also ACIR, *The Nature of Intergovernmental Relationships, Discussion Paper 1*, Hobart, August 1980; ACIR, *Options for Australian Local Government, Discussion Paper 2*, Hobart, August 1980; ACIR, *Constitutional Recognition of Local Government, Discussion Paper 3*, Hobart, August 1980; ACIR, *Local Government Boundary Re-Organization, Discussion Paper 13*, Hobart, September 1982; ACIR, *Local Government Boundary Changes and Amalgamations: An Historical Overview, Paper 12*, Hobart, 1983

²¹ Chapman and Wood, *Australian Local Government*, 11

²² See Australia, Department of Transport and Regional Services, *Roads to Recovery Programme Annual Report 2003-2004*, 2004. See also Australian Local Government Association, “Local Government and the Economy”, at: <http://councilreferendum.com.au/alga-pages/12312> Accessed 12 June 2016

²³ See Australian Local Government Association, “President’s Update. Constitutional Reform Update” at www.alga.asn.au/constitutionalrecognition/ last updated 15 February 2010. Accessed 12 March 2010. See also Australian Centre for Excellence in Local Government (ACELG) at www.acelg.org.au/aboutacelg.php, 2010. Accessed 12 March 2010

suit Federal policy priorities and centralising Federal governments, Australia's federal system challenges the meaning of "local" in local government.

So what do we mean by local government?

In comparing central (the state) and local government, each is characterised as containing people associating for the purpose of government and governing, some form of constitutionality with defined, limited and exercised law, defined territory over which authority is exercised, an identity expressed through agency, and responsibility and status as a person for the purposes of law.²⁴ Local government differs in two respects from the state. Firstly, the state as an organisation is capable of monopolising legitimate violence (it has sanction through the power of law) over a given territory. Secondly, between it and local government, it is effectively the final decision maker. Yet the idea of what local government is as an institution defies a single definition. Mill's consideration of this question in the nineteenth century is as relevant today as it was then:

In England there has always been more liberty, but worse organization, while in other countries there is better organization, but less liberty. It is necessary, then, that in addition to the national representation, there should be municipal and provincial representations: and the two questions which remain to be resolved are, how the local representative bodies should be constituted, and what should be the extent of their functions.²⁵

Contemporary Australian and British definitions of local government include:

A public organisation authorised to decide and administer a limited range of public policies pertaining to a circumscribed territory within a larger and sovereign jurisdiction.²⁶

Local government is a system of administration for small political units – towns, counties, and rural districts for example. It operates within a larger governmental framework and unlike a federal system the powers of the local government are usually delegated from the national or central government. Local councils which are traditionally democratically elected administer such matters as local environmental health, refuse collection, parks and recreation, traffic regulation and matters to do with town and country planning applications.²⁷

Local government is a system of administration for small political units – towns, counties and rural districts, for example. It operates within a larger governmental framework ...(with) powers ...usually derived from delegation

²⁴ *The Palgrave Macmillan Dictionary of Political Thought*, 3rd ed., s.v. "state"

²⁵ Mill, "Considerations on Representative Government", 364

²⁶ *The Palgrave Macmillan Dictionary of Political Thought*, 3rd ed., s.v. "local government"

²⁷ *The Penguin Dictionary of Politics*, 1985, s.v. 'local government'

by the national or central government. The powers of local government bodies, which are traditionally democratically elected ...generally extend over such matters as local environmental health, refuse collection, parks and recreation, traffic regulation and matters to do with town and country planning applications...In many countries local government has been seen as both a training ground for politicians with national ambitions, and as an arena in which ordinary citizens can have a more real involvement in politics than is possible at the national level.²⁸

The 'third tier' – and often referred to as the 'Cinderella tier' – of the Australian political system. The closely settled areas of Australia are divided into various local government areas – districts, shires, towns, cities – in accordance with area and/or population. Such local governments derive their authority solely from the state parliaments and governments, and have only recently been included in such inter-governmental relationships as direct financial assistance from the national government, the Council for Inter-government Relations and the Constitutional Convention.²⁹

There are two points arising from these. In mapping out any institutional view of local government these definitions provide material to identify a minimum of three common characteristics, as well as some assumptions surrounding local government (as say, compared to the state or central government). Secondly there is a set two-tier structure with a set relationship (central-superior/local-subordinate). The final definition places local government in Australia's three-tier federal system yet the relationship holds in matters of funding and policy. The key threads are function and character. (From another viewpoint, they also illustrate the position of local government as dependent and immature, as an adolescent compared to an adult.)

These definitions imply local government is a defined organisation, a political institution with a public, not private nature and fail to acknowledge the overlapping intergovernmental relationships or the increasing use of networks in the private (market) sphere.³⁰ It functions both politically and administratively with powers delegated from a central authority, and such powers are limited, delegated and subordinate. Local government works within a bounded territory and on matters of local concern. The geographically restricted delivery of services, payment for which

²⁸ *The Routledge Dictionary of Politics*, 3rd ed., s.v. "local government"

²⁹ *The Macmillan Dictionary of Australian Politics*, 3rd ed., s.v. "local government"

³⁰ The Australian Local Government Association defines the nature of local government in Australia with strong intergovernmental relationships. For example, see "Local Government and the Economy", at: <http://councilreferendum.com.au/alga-pages/12312> and "Local Government and the Australian Democracy" at <http://councilreferendum.com.au/alga-pages/12313> Accessed 12 June 2016. See also Robert Agranoff and Beryl A. Radin, "Deil Wright's Overlapping Model of Intergovernmental Relations: The Basis for Contemporary Intergovernmental Relationships", *Publius: The Journal of Federalism*, 45, no. 1: 139-159

is based on local taxation and choice of delivery, is based around the idea of subsidiarity. The elective characteristic implies elements of local democracy. There is a system of franchise and local elected representation linked to the allocation of resources and with local community representation. Democratic participation is contested by property qualification as a right to franchise, so full democratic participation is located then at Federal and State levels.³¹ In short, any meaning of local government derived from such definitions would contain characteristics of local area, local democracy and limited authority.

Such characteristics also imply assumptions about local government, that of perfect obedience to central government, that only local issues will occupy its field of concern, that subsidiarity operates in allocation of functions, that it is able to balance the demands of local constituencies and central government, and that democratic operation is limited by geography and rules of concerning franchise and office. Each is dealt with in turn before considering whether a theory of local government is possible.

The first assumption, that of perfect obedience to central government and its laws, operates through control being exerted through delegation from the centre over an inscribed circle of issues. The range of delegation can be either prescriptive or general competence but is still controlled by the centre. Unless there is some constitutional certainty granted, local government decision-making can be easily overturned from the centre and state-directed policy changes implemented. This does not prevent local government from using judicial or other political avenues to overturn policy. Where control at the centre is fragmented or weak, there is the opportunity to subvert, redefine or overturn rules to suit local situations.

Another assumption is that local government will focus solely on local issues and is generally not expected to interest itself in national or international matters. How then to explain why local government is seen to act on behalf of its community to intervene in global issues such as preventing nuclear war (Mayors for Peace) or climate change programs (International Councils for Local Environment Initiatives or Mayors for Climate Change³²)? Further, where there are areas of common

³¹ Spann, et al., *Public Administration in Australia*, 246

³² See “Mayors for Peace” at <http://www.mayorsforpeace.org/> and “Compact of Mayors Alliance” at <http://www.compactofmayors.org/>

interest, local government will seek alliances and coalitions of interest that can interfere with or subvert or seek to shape national policies and institutions (for example, municipal associations and lobby groups, Sister City associations). As one example, the Council of European Municipalities “endeavours to shape the future of Europe by enhancing the local and regional contribution...influence(ing) European law and policy...from the earliest stages of the EU legislative process.”³³ In Australia the Australian Local Government Association sought and gained access to the Federal Council of Australian Governments meetings to directly influence policies around finances, infrastructure, environmental and social issues.³⁴ While not writing the diplomatic communiqués or legislation, local councils can still wield a subtle form of power through influencing local constituencies to favour particular state or regional policies that in turn, when sufficient numbers are achieved, impact on the central elected members’ choices, particularly leading up to elections (for example, adopting Transition Town policies as a local response to climate change or creating coalitions of local communities and regions who rely economically on particular activities).

There is the assumption that the idea of subsidiarity is operational in allocating functions to local government areas (water, sewerage, parklands, community halls, etc.) although technological and societal changes challenge historical ideas of local “ownership” and responsibility for functions based on restricted geographical areas. Conflict arises between local and central government over ideas of what can or should concern local government, especially where public policy favours market mechanisms for allocating resources or for centralising functional control to suit central policies. What is efficient and effective from a central viewpoint may differ at the local level where benefit to the local community may well be a higher concern.

Assumptions of local control are challenged by local government being both answerable to its local constituency and to the demands of central government. It has to balance oft-competing administrative and political demands. Where central policy creates conflicts with local desires, the subordinate partner is left powerless. Yet there is also an assumption of elected practitioners being electorally limited to either

³³ See *ICLEI – Local Governments for Sustainability*, viewed 17 November 2010, <www.iclei.org/index.php?id=about>. See also *Mayors for Peace*, viewed 17 November 2010, <www.mayorsforpeace.org/english/index.html>. See also *About CEMR* > *Introducing CEMR*, viewed 24 November 2010, <www.ccre.org/presentation_en.htm>.

³⁴ See the Australian Local Government Association’s website, <http://alga.asn.au/>

the centre or local government. If there are no constitutional limitations, political coalitions can find further opportunities for asserting localist demands in reshaping or defeating central policy (as an example, local council's success in shaping water and sewerage legislation in Tasmania in the Parliament's Upper House).

Finally, there is the assumption that access to elected office and use of franchise is limited to those from and within a geographical area, and they will confine themselves to local, not national, matters. In contemporary local government, the right of franchise and running for elected office are no longer directly linked to ownership of property as was in the past, (depending on the chosen electoral system). Likewise, boundaries of territory may or may not be located along historical community affiliations. Top down policy approaches may be unsuccessful where local constituencies exercise street-level bureaucratic behaviour simply because community benefit outweighs financial efficiencies.

These assumptions question whether then if any meaning or theory of local government is possible or whether any theory based on an institutional approach is in fact a description of what exists in all circumstances. If local government becomes involved in national or international issues, if it uses means to subvert central authority to overcome a subordinate status, where it uses political influence and coalitions to shape central policy, what then delineates it from central government? The ideas of legitimate use of violence and parliamentary superiority can be invoked, yet the latter, from the points made above, point to central government not always enforcing a subordinate role on local institutions. Compromises are evident in the way people's ideas and beliefs shape the behaviour of local government institutions. Their actions are not fully reflective of an institution's assumed beliefs and values.

Sidney and Beatrice Webb, after exhaustive historical and constitutional inquiry described British local government as:

...a confused network of local customs and the Common Law, of canon law and royal decrees or charters, interspersed with occasional and unsystematised Parliamentary statutes...(from which) emerged four distinct organs of government: the Parish, the County, the Manor and the Municipal Corporation...inextricably entangled one with the other.³⁵

³⁵

Sidney and Beatrice Webb, *English Local Government: Statutory Authorities for Special Purposes*, Vol. 4, (London: Frank Cass and Co. Ltd., 1963), 353

These two scholars had spent twenty five years coming to the realisation, that just focusing on the nineteenth century as a starting point made it “impossible” to appreciate the 1830s reforms “without going much further back” as a means of understanding why local government existed. Their starting point was to be the 1689 Revolution. From this they drew “ideas that governed men’s minds” and acknowledged that they existed prior to even this date.³⁶ They encompassed the obligation for gratuitous public service, that land ownership was linked to public office as the basis of government, obtaining office was by co-option from within a select group, public office entitled freehold tenure, property ownership was a qualification for exercise of authority and the basis of law was common custom and the Common Law. Post 1689, they add the idea of local government as being free of arbitrary central interference.³⁷

Conclusion

There are a whole lot of assumptions in the words “local government” as well as meanings. In summary, when we look at local government, what we find is a profusion of meanings with some common themes. Whatever the meanings, the focus is on institutions, and not the people that form part of it. If we accept De Tocqueville’s observation it was the strength of people’s feelings about values of liberty and the consequent level of investment of public spirit in achieving independence and authority that determined the development of municipal institutions, the meaning of local government is more than just its institutions.³⁸ It is the people that make and shape it also. The next section considers how this can be thought about.

³⁶ Webb and Webb, *English Local Government*, Vol. 4, 350-351

³⁷ *Ibid.*, 351

³⁸ De Tocqueville, *Democracy in America*, 63-64

Section 2: Finding meaning

A past, in this sense, is a force making for group identity. This past defines 'us'. 'We' are those who have 'suffered under Pharaoh'...In other words, for a people who have a past, part of what they are is their past. In this sense a past is very much alive. It lives in that group whom, it identifies, and who keep alive by repeating it and by reminding each generation of children that 'we' served under Pharaoh. These repetitions serve to perpetuate the group as each generation comes to see itself as those who have served under Pharaoh...In such a manner a past can be kept alive as long as it is believed. There is nothing about the movement of clocks which diminishes it.³⁹

Introduction

This section argues for an interpretive approach as the means of filling that gap of knowledge in meaning. Using this approach to public administration by storytelling, rather than the rational analysis, it provides a greater depth of meaning. It will be argued that by doing this there is the opportunity to fill out institutional accounts when they are lacking explanations as to why people do what they do when they act out local government practice.

How then to find a fuller meaning of local government?

Returning to the definitions supplied earlier, these imply a shared set of local government characteristics that include bounded locality, limited power to act, and some form of representation. They imply a set of norms that local government is a public, political, representative institution that is closely aligned and responsible to local communities' needs; that it fits within a Westminster system of liberal democracy. These contemporary definitions of local government draw on the British origins linked to the reform period of the 19th century, as well as developments in the twentieth century for both Australia and the United Kingdom. There may be no all-encompassing theory of local government from Mackenzie's viewpoint, but for the purposes of this thesis, there are ideas and beliefs that can be drawn on which apply to local government in both localities. Consider these views of local government:

...the township serves as a centre for the desire of public esteem, the want of exciting interests, and the taste for authority and popularity, in the midst of the ordinary relations of life; and the passions which commonly embroil society,

³⁹

Henry Drucker, *Doctrine and Ethos in the Labour Party*, (London: Allen & Unwin, 1979), 30-34

change their character when they find a vent so near the domestic hearth and the family circle.⁴⁰

Local government is best viewed as healthy tribalism.⁴¹

(Local government is)...likely to remain firmly established as the most effective instrument of social welfare in our national life...The forms of our system can be changed almost beyond recognition, but not its substance. The spirit of English local government depends on three things: the right of the whole community to elect at periodic intervals a council of their own choosing; an opportunity for every citizen to participate in the work of the council; and the right of free discussion and criticism. If these things are not preserved the system will quickly fade and die.⁴²

These views take into account not just institutions but also people's interactions with them. So if local government is that which is closest to the people, should we then just be looking at institutions for the whole answer? Further, if there is any evidence of shared political, not just institutional culture, contributing to the development of local government in Tasmania and the United Kingdom, given the historical linkages, is there something that can be learned from both?

Mackenzie also made the point that local government is an idea that is axiomatic – it has been around for so long, as to be invisible in any discussion. The point here, is that yes, it has, but the thought has to be guarded against of local government always being in the same *form* or the people involved in it all behaving in expected ways. Further, that may be the case for Britain, but is it so for Tasmania? The assumption that Tasmania's local government derives its characteristics or nature from 19th century British local government is easily created by historians and public policy writers who looked no further than the similarity of institutions between the two centuries and two localities from the nineteenth century. Understanding local government in Britain prior to the nineteenth century means having to make sense of a confusing, long enduring, contested set of ideas and institutions idiosyncratically formed prior to that time. Nineteenth century reforms become easier shorthand. The same applies for institutions formed by the end of that period. To paraphrase Mackenzie, the idea of local government in Tasmania as *always being*, that which derived from nineteenth century reforms, ends up as becoming axiomatic. By only

⁴⁰ De Tocqueville, *Democracy in America*, 64-65

⁴¹ Michael Jones, *Transforming Australian Local Government: Making it work*, (St Leonards: Allen and Unwin, 1993), 15

⁴² W.A. Robson, "The Outlook" in *A Century of Municipal Progress 1835-1935*, ed. Harold J. Laski, W. Ivor Jennings and William A. Robson, (London: George Allen & Unwin Ltd, 1935), 464

examining local government institutions from one set period of time and not the ideas and beliefs that contributed to its development over and up to current time narrows policy development and understanding. There is the risk that the ideas and beliefs that affect the behaviour of local government actors become invisible in any later policy process, thus confounding desired policy outcomes, or they become easily discarded through not fitting into a rational discourse that boxes local government within central policy expectations. Institutional public policy approaches will compound such risks because they tend to focus on central government and institutions at the centre of any policy shifts.

Australian local government literature appears pre-occupied with the need to reform institutions, to restructure operations and to either enlarge or narrow powers.⁴³ By nesting ideas of local government in Tasmania in the context of English reforms institutional theorising can then only explain Tasmania's local government in terms of failure and hence always needing reform. If local government is viewed as a government failure through financial and administrative institutional norms, then this can lead to central government policy choices of market mechanisms to achieve local government functions. What implications are there then for the community in terms of democratic voice, in deciding the future of their locality? Yet the institutional imperative argues that, "...to govern we must strive to understand structure and to follow what we understand; work done against the grain is fruitless".⁴⁴ If this approach is taken it precludes a broader understanding of local government through analysis of the attitudes, values and actions of local government actors. If institutional approaches are only one part of the public policy toolbox, and when they are unable to provide sufficient answers to why people act, and react, to public policy, does it mean we have to continue hitting away with the same set of hammers?

Local government is more than just administration and when reform is proposed, it then becomes a contested area for sets of ideas and beliefs underlying the principles of local area, local democracy and limited authority, ideas such as community of interest. How then to tease out such ideas and beliefs, and how to test their impact on public policy? Local government is intimately associated with community.

⁴³ See for example D.M. Purdie, *Local Government in Australia: Reform or Regression* (Sydney: The Law Book Company Limited, 1976; Chapman and Wood, *Australian Local Government*; Jones, *Transforming Australian Local Government*

⁴⁴ Mackenzie, *Theories of Local Government*, 19

Human activity is embedded within a web of beliefs, norms, meanings and ideas requiring more than interrogating the historical-formal-legal record to understand the ways that their "...social practices are created, sustained, and transformed through the interplay and contest of beliefs...".⁴⁵ By not restricting an explanation to one type of approach alone, it becomes possible to explore broader understandings of the ideas and beliefs of local government. Indeed, if the idea of local government is thought to be axiomatic, might it not also be said that the ideas and beliefs of local government could be also? To find this, we can now turn to using an interpretive approach that looks not at institutions, but the people who are involved with them.

A different viewpoint

This approach to finding meaning in the public administration of Tasmania's local government draws on the body of theoretical work on an interpretation approach developed by Bevir and Rhodes and others in examining governance and government not from the point of view of institutions but from people and their everyday interactions, with public administration.⁴⁶ This interpretive approach is about storytelling, rather than rational analysis. It suggests a different viewpoint, of looking away from the rational instrumentality of an institution's embedded beliefs and practices that affect policy and outcomes, towards that of independent people's behaviour or actions and practices. It seeks to find meaning for them, in trying to understand the "webs of significance that people spin for themselves".⁴⁷ For Bevir and Rhodes, governance is something that is contingent on actor's beliefs, on how they draw on historical "traditions" to respond to dilemmas, on whether new beliefs will lead to any modification of actions or practice, and whether those new actions will coalesce in new practices and patterns of rule.⁴⁸

⁴⁵ Mark Bevir and R.A.W. Rhodes, "Interpretation and its Others", *Australian Journal of Political Science*, 40, no. 2 (June 2005): 171

⁴⁶ See as some examples, Mark Bevir and R.A.W. Rhodes, *Interpreting British Governance*, (London: Routledge, 2003), *Governance Stories*, (London: Routledge, 2006), R.A.W. Rhodes, Paul 't Hart and Mirko Noordegraaf, ed. *Observing Government Elites: Up Close and Personal* (Houndsmill: Palgrave Macmillan, 2007); Mark Bevir and R.A.W. Rhodes, "Authors' Response: Politics as Cultural Practice", *Political Studies Review*, 6 (2008): 170-177; R.A.W. Rhodes, "Understanding Governance: Ten Years On", *Organisation Studies*, 28, no. 8 (2007): 1-22; Mark Bevir, "Public Administration as Storytelling", *Public Administration*, 89, no. 1 (2011): 183-195

⁴⁷ R.A.W. Rhodes, "'Genre Blurring' and Public Administration: What Can We Learn from Ethnography?", *Australian Journal of Public Administration*, 73, no. 3 (2014): 320

⁴⁸ Mark Bevir, "Public Administration as Storytelling", *Public Administration*, 89, no. 1 (2011): 184

In effect, an interpretive approach enables a researcher to attempt to open up the “black box” of what makes people behave the way they do, compared to expectations or explanations of behaviour associated with government institutions within which they work. The institution as embedded beliefs and practices is no longer at the centre of explanations for people’s actions or the consequences of their actions. Firstly it is a mistake to reify institutions “as causes that either operate independently of (people’s) beliefs or stand in for those beliefs”.⁴⁹ Secondly, it is also a mistake to assume that all members of an institution hold similar beliefs or view their interests in the same way or even share a common culture.⁵⁰ Each person occupies a distinct point in time and space and as such for each individual, concept, actions and practices can only be explained as contingent to their particular inheritance of historical beliefs and the values within which they were acculturated. There can be no one model as the set explanation for why people behave as they do. The story of public administration is therefore transformed by the decentring organisations and a shift to focusing instead on people’s explanations of meaning and these people’s actions and practices in response to challenges (also called dilemmas) to their inherited beliefs and values.⁵¹

The choice of an interpretive approach by its focus on beliefs and values over time means that it provides a useful means of filling gaps in knowledge. It overlays “thin” institutional descriptions with “thick” storytelling, by recovering people’s stories of experience and presenting them as a set of “traditions” as embedded beliefs and ideas which create meaning for observers. Thick descriptions of beliefs and practices can be sourced by gathering data from sources such as historical archives, official documents, recorded interviews and statistical materials.⁵² In particular, focussing on elected local government people and what they say when challenged by reforms such as amalgamation provides a clear insight into the beliefs and ideas they bring to the institution.⁵³

⁴⁹ Bevir, “Public Administration as Storytelling”: 189

⁵⁰ *Ibid*: 192

⁵¹ See for example, Gilbert Ryle, “The Thinking of Thoughts”, *Collected Papers Volume II Collected Essays 1929-1968*, 480-496 (London: Hutchinson & Co Publishers Pty Ltd, 1971) and Clifford Geertz, *The Interpretation of Culture*, (New York: Basic Books, 1973), 3-30 as an introduction to the idea of finding meaning in people’s thinking. In particular Bevir and Rhodes, *Interpreting British Governance*, 20-22 for their interpretive approach, and pp. 31-40 for explanations of decentering, dilemma and tradition.

⁵² Ryle, “The Thinking of Thoughts”, 487

⁵³ Rhodes, “Understanding Governance: Ten Years On”: 10

Such a study results in a piling-up of “inference and implication” that enables the observer to develop a social construction that takes us “into the heart” of what is being interpreted.⁵⁴ Geertz may argue that this sort of descriptive technique is also “microscopic” and as such cannot be transferred to “wall-sized culture-scapes of the nation”.⁵⁵ Thick descriptions of elected local government people’s beliefs and practices are not intended to be predictive of what they will do into the future. Rather, using this interpretive approach tells us how the traditions of local government have been built up over time and finds some meaning in how they have been created, sustained and modified.⁵⁶ While this approach is not claiming to be the only means of finding the truth of the beliefs and practices of elected local government people, it should give an insight into a range mind-sets and subjective views as a means of explaining events (depending of course on what the researcher brings to the interpretation).⁵⁷

There is an advantage to an interpretive approach in that it can overcome a shortfall of data, especially where institutional accounts are lacking. To borrow from Sanjek: “...bottom-up ethnographic understandings ‘in the city’ need to be complemented by top-down study ‘of the city’...” if we are to understand history, culture and behaviour.⁵⁸ By “...challeng(ing) dominant assumptions about (Tasmania’s local government) ...in ways that unlock new ways of understanding, thinking or acting”⁵⁹ it opens up consideration of different interpretations of institutional history. History becomes traditions within which people also frame their responses to challenges or dilemmas. This interpretive approach argues for tradition as “an ideational background against which individuals come to adopt (their) initial web of beliefs”. Tradition influences the beliefs that people later go on to adopt, and so helps to explain their historic actions.⁶⁰

So with people’s stories rather than official institutional accounts dominating a description of public administrative activity, this opens up a narrative experience of

⁵⁴ Geertz, *The Interpretation of Culture*, 7, 18

⁵⁵ *Ibid.*, 21

⁵⁶ Rhodes, “Understanding Governance: Ten Years On”: 10

⁵⁷ David Richards, “Elite Interviewing: Approaches and Pitfalls”, *Politics*, 16, no. 3 (1996): 200

⁵⁸ R. Sanjek, “Keeping ethnography alive in an urbanizing world”, *Human Organisation*, 59, no. 3 (2000): 282

⁵⁹ Kevin Orr and Russ Vince, “Traditions of Local Government”, *Public Administration*, 87, no. 3 (2009): 656

⁶⁰ Mark Bevir and R.A.W. Rhodes, “Reply to McAnulla: Disaggregating Structures: An Agenda for Critical Realism?” *British Politics*, no. 1 (2006): 3

history that allows people an understanding of themselves, others and the world as meaningful.⁶¹ Finding out what beliefs and ideas that people in institutions actually hold, and acknowledging these as being of value in public policy debates, creates a new context for creating meaningful public policy tools, especially where existing ones have failed to resolve recurring problems or to understand the impact of non-rational choices. The beliefs and preferences of the people involved are capable of being grasped and as such the recurrent patterns of actions and related beliefs can be observed and interpreted.⁶²

Why take this approach?

The application of an interpretive approach can provide a wide variety of results. Orr and Vince considered the political and managerial practices in British local government through developing various traditions. Focusing on beliefs and practices, they proposed three sets of thematic traditions (politics, organisation and critique) that encompass fourteen traditions drawn from historical sources of the mid-nineteenth century to current times, to create fresh understandings of a period of significant public sector and social change.⁶³ Echoing Hummel's findings, multiple stories challenged the idea of local government as a unified, homogeneous organisational entity.⁶⁴ Richards and Smith questioned the relationship between ministers and officials, contrasting perceptions of roles through constitutional, rational choice and materialist models with an interpretive method leading to a more complex understanding of the worlds within which these two groups operate and behave.⁶⁵ Wanna and Weller's development of governance traditions in an Australian context argues specific sets of beliefs as shaping the role of government and the public sector.⁶⁶

These applications of an interpretive approach demonstrate why its choice provides a rounder understanding of events and people. As an interpretive approach needs to take care to keep the stories within confined localities and not extend them into

⁶¹ Donald E. Polkinghorne, *Narrative Knowing and the Human Sciences*, (Albany: State University of New York, 1988), 135

⁶² Rhodes, "'Genre Blurring' and Public Administration": 320

⁶³ Orr and Vince, "Traditions of Local Government": 657

⁶⁴ *Ibid*: 655-677

⁶⁵ David Richards and Martin J. Smith, "Interpreting the World of Political Elites", *Public Administration*, 82, no. 4 (2004): 777-800

⁶⁶ John Wanna and Patrick Weller, "Traditions of Australian Governance", *Public Administration*, 81, no. 1 (2003): 63-94

larger societal meanings, using this method suits the restrictive confines of Tasmania's local government as a subject.⁶⁷ For this thesis, it overcomes the practical problem of inaccessibility to or absence of research data, particularly in recent times. While there is a growing body of literature on Tasmania's local government *history*, it is difficult to access recent political, governance and administration sources to fully explain the nuances of changes over time in any traditions of local government. Events can be so recent as to not be written of, other than formal documentation associated with policy development, agreements and implementation. Narrative sources outside formal institutional historical accounts may provide explanations for why policy decisions were made and the events leading to them. An example is the development of co-operative and shared resources partnerships between Councils, a relatively new development in Tasmanian local government practice, where an isolationist tradition once prevailed even with adjacent municipalities until very late in the twentieth century. As mentioned above, an interpretive approach has the value of opening up the black box of why people behave in response to particular governance challenges. Its value as an account of people's behaviour is to trace the flow of social discourse that often gets disregarded in policy analysis and formation. By writing down thoughts/content/gist, rather than just describing an event in terms of the institutional frameworks within which events occur, it allows an inspection of meaning and so drawing of conclusions from such content that might otherwise have remained silent.⁶⁸ It reveals hidden beliefs and values that are otherwise submerged by "official" accounts or simply disregarded as not rational evidence for behaviour and therefore either discarded or devalued as to importance.

An interpretive method does not fix behaviour by the historical public policy norms of administrative or rational choice or the constitutional norms of government systems. Rather than "thin description" or "history without people", using this approach to understand people's behaviour creates a set of relevant traditions and responses to dilemmas that builds on knowledge and observation.⁶⁹ To take this approach is not to disregard objectivity and reason. Hummel points out that

⁶⁷ Geertz, *The Interpretation of Culture*, 22

⁶⁸ *Ibid.*, 18-20

⁶⁹ Roger Sanjek used the term "thin description" in "Keeping ethnography alive in an urbanizing world", *Human Organisation*, 59, no. 3 (2000): 282 in expressing a concern about focusing too much on history, political economy and theory at the expense of ethnography.

knowledge based on objectivity and pure reason is not the *only* valid means of interpreting the world. There is a case for synthesis of knowledge based on both analysis and observation, as events rarely repeat themselves and are not confined to rigid concepts or solutions.⁷⁰ He argues the case for knowledge derived from the stories people tell as credible as sources of knowledge derived from public policy research. So the approach of going out into the field to talk with people and so develop narratives of their beliefs and desires has validity for creating meaningful public policy. What cannot be done is to draw predictions and laws from the data amassed – the usefulness lies in making “general statements which are plausible because they rest on good reasons and the reasons are good because they are inferred from relevant information”, that is, intensive fieldwork underpins plausible conjectures on how to make good public policy.⁷¹

As an example of the value of this type of inquiry in understanding why what is perceived as good public policy fails, Sanjek’s fieldwork in an American city in 1975 revealed the importance of both fieldwork and contextualisation in explaining why people organised to resist city policies. From a state-centred view, the dominant story from central administration was improving the city’s prosperity through policies that attracted financial traders. From the people’s viewpoint however, quality of life issues were important to them and money was not being allocated to their concerns. By combining both historical public policy analysis and listening to what people had to say, Sanjek was able to synthesise a new meaning as to why people resisted the primacy of the dominant story and organised to subvert the policy process towards their desires.⁷² The beliefs of individuals were recognised as the “wellsprings of movements” that countered the institutionalised analysis of how the city and its people were given meaning.⁷³

In another example of the usefulness of an interpretive approach in shaping public policy, this practice enabled an understanding of how environmental activism flows over into the practice of everyday life as a direct challenge to the shaping of dominant government policy and the behaviour of markets. Such values create continual challenges for the development of relevant public policy and in particular

⁷⁰ Hummel, “Stories Managers Tell”: 31-41

⁷¹ Rhodes, “‘Genre Blurring’ and Public Administration”: 321

⁷² Sanjek, “Keeping ethnography alive”: 282-288

⁷³ *Ibid*: 285-286

to government's authority as the key regulator in protecting and securing the interests of the public in the protection of property. Connor's account challenges a view of environmentalism being either dead or ossified in government development frameworks by exploring how people in the Hunter Valley of Southeast Australia have informed themselves about issues of sustainability, clean energy, social justice, biodiversity and environmental protection. The study contrasts what this means for such individuals in Australia's consumer capitalist system in addressing climate change and the structural causes of environmental exploitation.⁷⁴

By exploring the stories of people in various forms of community based environmental groups in the Hunter Valley, Connor's analysis of their practices creates an understanding of the underlying values behind how each seeks to change government policy towards a sustainable low-carbon or zero emissions society. The study challenges the institutional viewpoint of environmentalism as a single political issue easily replaced by another "trendy" issue as attention wanes or success is not achieved. It identifies how individuals continue to favour environmentalism by choosing as part of a "stable life project" from a host of climate change activities aimed at changing the structure of the society at both market and political levels.⁷⁵ Activities range from very identifiable direct action events aimed at disruption to force policy change to activities within existing institutional frameworks such as creating renewable energy markets, diverting public traffic funding to cycling projects and challenging energy intensive food suppliers with farmers' markets, that created climate change policy shifts in small increments in and of themselves. All these activities challenge dominant institutional values within a growth-based economy that values consumerism above environmental protection, demanding a fundamental change to the structure of society and the way life is lived in local communities.

In these two examples, how might the stories have looked if the focus had just been on the values of the institutions involved? In the Sanjek example, the historical public policy approach alone would have only described the development and success or otherwise of "top down" developed public policy. The issue of quality of

⁷⁴ Linda H. Connor, "Experimental Publics: Activist Culture and Political Intelligibility of Climate Change Action in the Hunter Valley, Southeast Australia", *Oceania*, 82, no. 3 (November 2012): 228-249

⁷⁵ *Ibid*: 247

life would be difficult to quantify or to assess its strength, other than perhaps being noted as one reason for policy resistance. The “bottom-up” understandings from “in the city”, the flow of social discourse that enabled observation of resistance to institutionalised policy making would, as Geertz puts it, have been disregarded in policy analysis and formation. In effect, without such observations, any conclusions that just included the analysis of market and state would result in “thin descriptions” or “history without people”.⁷⁶ The actions of individuals as political movements and as participants in everyday patterns of work and society that resisted the “top-down” policy would have been submerged by “official” accounts of how the city and its future was visualised.

In the Connor case studies, by just focusing on environmental organisations and their pattern of resistance and response to government climate change policies, a finer grain understanding of what beliefs and ideas that motivated people to participate would have been lost. As one example, Connor’s approach was not only able to illustrate the values that led to life-long commitments to change, but to also demonstrate differing levels of political motivation and a greater understanding of the multiple, fractured understandings why the problem of climate change was difficult to address:

There was a protest down at Combet’s office (Federal MP), and we had one guy come down, and we’d never heard of him before. He said ‘I came to help you guys out, because you guys saved me a thousand bucks on me solar panels’. But ok, that’s a different kind of way of coming at it.⁷⁷

The grassroots climate movement needs to be radicalising the population, radicalising themselves I think. Because at the moment they’re still stuck in lobbying, in letter writing, in petitions, in marches, things like that, and I really think that the climate movement needs to get a lot more serious in campaigns of civil disobedience and just much more gung-ho kind of action ... Really pushing the boundaries of what’s allowed, to really force the government’s hand on the issue.⁷⁸

So you need to engage with people’s hearts, as well as their minds, for them to take action (on climate change). Like they need to be somewhat scared into action, they need to be a bit fearful for their children, to do something about it.⁷⁹

⁷⁶ Sanjek, “Keeping ethnography alive”: 282

⁷⁷ Connor, “Experimental Publics”: 239

⁷⁸ *Ibid*: 241

⁷⁹ *Ibid*: 247

The study revealed beliefs and values that are otherwise disregarded as not rational in the context of dominant Western ideas and values. It provided evidence of why people pursued particular policies within the framework of Australia's democratic institutions and outside. By listening to people's stories and from these developing a set of traditions surrounding the issue of climate change, it gives additional meaning to why dominant policies are challenged and how institutions are transformed through different policy choices.

As an example of why this approach has utility for examining local government, public administration scholarship on Tasmania's local government is sparse – there is little to explain why a system of local government was so important to those who pushed for its introduction or considered it a sufficiently important tier of government to maintain it past Federation. However one example by von Stieglitz gives some clues that its development and what underlies how people have dealt with its challenges is more than a series of legislative Acts and amendments. The book details in great length not always accurately a series of historical facts and lists of legislation outlining the development of local government to around 1958. As a two hundred and forty four page history, any comment on the motivations of why people are involved in it is left to some scant paragraphs:

Most councillors are proud of the fact that they are not paid for their services, being able to look on it as an honour to serve their country in that way. Some of them refuse to accept travelling allowances, even when they have been put to great expense in covering long distances. Wardens and other Justices of the Peace give whole days of their time to work on the Bench with no form of emolument, and with the likelihood of becoming extremely unpopular among the local citizens who have appeared before them and suffered for their misdeeds.⁸⁰

The feeling between local councils and the government is almost invariably very friendly and co-operative. Political matters are not discussed at the council table and it may truly be said that there is no political bias whatever in council affairs. If such an attempt were made, the councillor who introduced the subject would be promptly silenced.⁸¹

There was a long row to hoe, before our municipal system reached its present flowing strength...this was a new world with new conditions such as local government had not encountered before. No local tradition served as guidance for its foundation.... Yet we know how well those early difficulties were

⁸⁰ von Stieglitz, *A History of Local Government in Tasmania*, 241

⁸¹ *Ibid.*

overcome and how in the end even those who had scorned the thought of local government were won over.⁸²

One of the most modern duties to be performed by rural wardens is the swearing-in of foreigners – new Australians – as citizens of the Commonwealth. The reactions of some of these people often show their underlying doubts as to the possibility of any ballot being secret or the fact that they may really choose for themselves whom to vote for. Any Warden who has carried out this ceremony cannot have failed to be deeply touched by their earnestness in this and other kindred matters.⁸³

These examples point to an underlying set of beliefs and ideas about how people are expected to participate as Tasmanian local government actors based on a system “founded on the well tried British system that had been developing in various forms since before Magna Carta.”⁸⁴ Today, elected people accept various allowances. They not only freely enter into political debates but openly declare their political allegiances around the Council table as community representatives. So how then to understand these changes if definitions of local government continue to change? Is it possible to establish a set of ideas and beliefs relevant to Tasmania’s local government to explain why it is what it is?

Conclusion

This section argued for an interpretive inquiry as the means of filling that gap of knowledge between the behaviour of people and the expectations of people’s behaviour as part of institutions. It laid out the groundwork for why an interpretive approach has utility for understanding the basic question of this thesis when institutional accounts have failed to do, so leaving such accounts open to lapses of imputing ideas of why people have made the choices they have. For example, using terms such as “parochial” to lazily condense whole arguments on the importance of maintaining identity for communities rather than going out and finding why identity is so important a community will resist a rational reform. The next and last section on this thesis’ theory chapter introduces the concepts of traditions and dilemma and proposes their use in the journey for seeking meaning.

⁸² von Stieglitz, *A History of Local Government in Tasmania*, 243-244

⁸³ *Ibid.*, 244

⁸⁴ *Ibid.*, 243

Section 3: Tradition and dilemma

Introduction

In this section the work of Bevir and Rhodes on the concept of tradition and dilemma is introduced. As Tasmania's local government is derived from English practices, using this approach can help find similarities in ideas and beliefs in Britain and then consider if the same are present at any time in Tasmania's local government history. Traditions, being about ideas and beliefs, are able to be derived from the storytelling of local government practices. The section concludes the thesis theory chapter with a choice of share local government traditions that can be used to give added meaning to Tasmania's local government.

Using traditions

Bevir and Rhodes' concept of tradition provides a starting point for understanding the inherited beliefs about institutions and the history of government (and in this case, Tasmania's local government) over time. People's "beliefs and actions construct the nature of the organisation or network". By focusing not on institutions but on people's beliefs and ideas that create traditions, it provides a different understanding for exploring the way political institutions are "made and remade through the activities of particular individuals."⁸⁵

Bevir and Rhodes argue that actions can be understood because the meanings of beliefs have primacy in any analysis, and beliefs are a part of action.⁸⁶ An historical method provides one framework on which to describe the story of local government in Tasmania – it is a description of what is. Conversely by using the method of traditions, a lens is focused on understanding actions, giving an added richness to comprehension of events. (To be clear, traditions are not to be confused with social customs, but rather as an observer's construction of what other people think they are doing.⁸⁷) In arguing for decentring institutions and focusing on narrative to understand how people adapt, develop and even reject aspects of their heritage when faced with dilemmas, this approach acknowledges the capacity of people to work

⁸⁵ R.A.W. Rhodes, "Putting People Back into Networks", *Australian Journal of Political Science*, 37, no. 3 (2002): 400

⁸⁶ Bevir and Rhodes, *Governance Stories*, 15-31

⁸⁷ *Ibid.*, 21

around the rules as an interpretation of what is in the best interests of their community and in shaping their institutions.⁸⁸ An interpretive approach acknowledges situated agency, that each individual brings to a tradition their own beliefs and practices, and can transform institutions and social backgrounds through innovation when faced with dilemmas. While there are a host of traditions that are really customary practice, “tradition” is used as a way of finding the beliefs and practices passed on over generations, contingent on the way they are developed by people through their historical background.⁸⁹ Bevir and Rhodes argue for beliefs being constitutive in their relationship to actions and that practices would not exist if people did not believe in what they were doing. Neither do Bevir and Rhodes hold that beliefs, meanings, ideas and norms can be separated from people’s actions.⁹⁰ So it follows then it should be possible to derive, through an interpretive and historical analysis of actors’ accounts of local government in Britain leading up to the time of colonial settlement in Tasmania, underlying traditions that encompassed the beliefs and practices that enabled populations to develop a similar set of local government institutions here. Continuing on with this approach of exploring beliefs and practices post settlement, it may be possible to elicit further the development traditions of local government by settling generations in Tasmania and observe how they have been transformed in response to local dilemmas. Yet this concept of traditions should not be used to say what people *will* do in response to any dilemmas. Rather they provide propositions as to how people are likely to respond when faced with dilemmas that challenge their beliefs.⁹¹

This is not to say that having grown within a tradition a person’s beliefs are set for life. Bevir and Rhodes qualify the effects of beliefs on actions by allowing also for desires and people’s capacity for innovating against the background of a tradition.⁹² The value of an interpretive approach towards understanding Tasmania’s local government is the ability to observe how people’s personal beliefs have developed over time. It may also draw out why people act for reasons of their own. It can point to individuals who have introduced innovation, either from a competing tradition or simply because their capacity for innovation combined with the effect of “being

⁸⁸ Bevir and Rhodes, *Interpreting British Governance*, 32

⁸⁹ *Ibid.*, 33-34

⁹⁰ Bevir and Rhodes, *Governance Stories*, 2-3

⁹¹ *Ibid.*, 10

⁹² Bevir and Rhodes, “Reply to McAnulla”: 3

there” at a time of dilemma or conflict in beliefs. It may explain people’s actions at times of challenge such as reform in that the strength of the traditions within which they have developed their beliefs is so strong they will not alter their beliefs and ideas but pursue courses of unexpected action in order to subvert expected policy outcomes.

Historical analysis through examining as wide a range of information as possible enables identifying traditions with beliefs and practices that are evidenced to have passed on consistently from one generation to the next. Placing, at the centre the meaning of people’s actions, “thick” descriptions of Tasmania’s local government development builds up these patterns of belief and practice, especially where they are located in pre-19th century Britain and then relocated in the relative isolation and geographical challenges of Van Diemen’s Land. As external events have contributed to changes in local government practice so this approach can assess how practitioners have had to reassess their ideas and beliefs on what local government means to them, through either sustaining, maintaining or accommodating their beliefs.

A comprehensive range of historical material can be drawn on to provide descriptions of the development of Tasmania’s local government political and administrative systems and to develop narratives of beliefs and relationships. Allowing for variability, they constitute useful material for eliciting individuals’ beliefs and understanding responses to dilemmas. By widely reviewing materials from a range of sources outside of public administration literature, traditions of local government can be developed through linkages with British government and society. Likewise, the dilemmas they pose to beliefs and ideas can be elicited. These include various modes of centralising government and policy decisions (colonial military governors, State and Federal Labor governments) and ideas that are challenged by other changes in society (localism challenged by changes in transport and globalisation, property qualification replaced by universal suffrage and lifts in standards of living, etc). Using storytelling reveals the cultural practices behind such dilemmas. Bevir and Rhodes’ approach allows getting “below and behind the surface of official accounts... providing texture, depth and nuance” in understanding patterns of change and capturing the way people think about local government.⁹³ Traditions are a flexible means of understanding the time and society under

⁹³ Bevir and Rhodes, “Authors’ Response”: 176

examination. Orr and Vince for example, use three sets of thematic traditions (politics, organisation and critique) that encompass a further fourteen traditions drawn from historical sources of the mid-nineteenth century to current times in the United Kingdom, to create fresh understandings of a period of significant public sector and social change.⁹⁴

By using traditions, the assumptions of what local government means can be challenged and reassessed, if not reaffirmed. When changes are resisted at the local government institutional level and in a way that appears irrational, how can rational policy processes respond? Consider, for example, if ideas of representation based on pre-19th century ideas of property and non-politicisation are challenged by electoral reforms such as universal franchise, the presence of political parties or attempts to introduce compulsory voting. Or if multiple communities developed through differing geographical and economic factors are confronted by centralising governments pushing for a one-size fits all amalgamation or larger non-elective regional forms of administration. Or if elected community leaders based on land ownership and class find themselves having to defend incumbency by non-property owners or by non-elected statutory boards based on expertise or by participatory democratic practices that no longer privilege elected members. Telling people's stories through using traditions enables filling in the gaps of understanding responses to challenges. It adds to the knowledge of Tasmania's local government, as well as the body of work exploring "politics as cultural practices."⁹⁵

Three Tasmanian local government traditions

As a first attempt at using an interpretive approach to understanding Tasmania's local government, three local government traditions are proposed for the purpose of this thesis: localism, voluntarism and representation. The use of these three terms is as *propositions* derived from "mining out" the historical record for dominant local government beliefs and values. They represent the most evident ideas and beliefs that have persisted over time from a review of written sources of local government and revealed in Van Diemen's Land (now Tasmania) – those of local identity, local autonomy and local representation.

⁹⁴ Orr and Vince, "Traditions of Local Government": 657

⁹⁵ Bevir and Rhodes, "Authors' Response": 170

As propositions they are not by any means definitive, exhaustive or exclusive of any other traditions that could be chosen by another researcher, as Vince and Orr have done with their set of local government traditions.⁹⁶ For some researchers, the issue of public policy governance and networks or the influence of party politics is of primacy. There is nothing to say that other traditions might not be as valid to investigate *although it is difficult to understand, given the available historical materials, how they may be useful for the problem that is being investigated.*

Party politics, for example, would be a tradition to investigate in the English sphere for its impact on reform and there is a rich literature to support it. This is not the case for governance and networks in the 19th century in Van Diemen's Land.

Neither of these appeared to be visible in the literature for Tasmania's local government as sets of connected ideas and beliefs passed on over the generations. The availability of historical records is also a key delimiter. For example the lack of a Hansard until very late in the 20th century for much of the deliberations of Tasmania's Legislative Council meant that key debates over local government amalgamation are unable to be recovered past the turn of the 19th century because newspapers stopped reporting word for word parliamentary debates. The proposed traditions to be investigated have longevity well before the 19th century and resonate in current Tasmanian materials.

These traditions are *constructions* used as a first cut to understand the *why* of what has happened in an area of great interest primarily to the researcher - the development and problems of reform of Tasmania's local government. As both an elected person and as a student of public policy, the choice in this set of writings reflects not only a pragmatic approach to limited research resources of time and money but also an opportunity to utilise what is a unique insight to over seventeen years of observation and conversation not usually available to academic researchers for the benefit of other elected local government people.

For the researcher, these proposed traditions simply act to decentre the existing explanations for local government institutional development and focus instead on the ideas and practices evident in the historical record that have informed local government development in England up to a particular historical point, and at the

⁹⁶ Orr and Vince, "Traditions of Local Government": 657

point of transferral to the challenging conditions present in the new colony of Van Diemen's Land. These ideas and practices are further revealed in following chapters and evidence for them is found further back in the historical record.

As will be further considered in later chapters, English local government underwent two reform periods where central government directly intervened to shape local government. The first is marked by the late Tudor abolition of monasteries and consequent introduction of Poor Laws. After this, little was done until the late eighteenth century when societal, economic and demographic changes contributed to what was then a largely agricultural pattern of English life. The innovations of the Agricultural and Industrial Revolutions caused a breakdown of rural and craft employment. The second period of reform was as a direct response to the consequence of population movements from rural to urban areas, as well as the problems created by manipulation of the Poor Laws. The problems of strong urban development led to a period of reform marked by legislative changes in 1835 abolishing the old corporations and continuing into the twentieth century.⁹⁷ The modernising ideas from the second period of industrial urbanisation and municipal development that focused on the cities and industrialised towns in England took a longer period of time to be realised in Tasmania, particularly given the agricultural and regional, rather than urban, patterns of development on the island that were prevalent until middle to late twentieth century, and the impact of periods of economic downturn.⁹⁸

This thesis will argue that for most of two centuries of Tasmanian settlement the ideas and beliefs underpinning the local government practices of rural and small town Britain that were developed before and after the first period of reform would appear to have more relevance, at least until the positive economic and demographic changes in the middle decades of the twentieth century in Tasmania encouraged new ideas of how local government should be managed. In effect it is the persistence of traditions of local government prior to the second period that are proposed as being examined as the possible causes for resistance to reform. Are changes in local government practice an indicator of decline of these traditions? To what extent have

⁹⁷ Bland, "Is there a future for local government": 212. See also Hennock, *Fit and Proper Persons*, 2-3

⁹⁸ See Reynolds, "Regionalism in Nineteenth Century Tasmania": 14-28: See also Cumbrae-Stewart, "The English Background", 39

local government governance practices accommodated the dilemmas posed by the ideas and beliefs underpinning the second period of municipalisation and the increasing centralising tendencies of Tasmania's State government?

Parts II, III and IV propose to outline each tradition's historical development, linkages and presence in Tasmanian local government development, and importantly the points of divergence from and dilemmas posed by modern local government practices to older practices. It should be pointed out that human behaviour is a messy business – sorting it out via an interpretivist approach is not easy. Attempting to categorise, define and delineate behaviours to exacting timelines using this approach is at best pointless. Applying it to understanding local government increases the complexity. The pattern of local government development in Britain and Tasmania has been and continues to be “piecemeal...a series of conflicts and compromises, compounded with experiments and accidents”.⁹⁹ It is the responses to the dilemmas posed by modern local government practices that have particular relevance for understanding behaviours present in Tasmania's local government today.

Localism

The first tradition, localism, contains within it the beliefs and practices associated with a sense of place, as a centre for community identity, shared interests and geographical connections.¹⁰⁰ It is about ideas of provision of local services, local financial responsibility and local autonomy. Localism is expressed in cultures with relatively small bounded places, where people engage in daily interpersonal relationships built up through habitual and repetitive ideas and practices. It is underpinned by a belief that the size of an area has to be such that it allows the closest possible contact between office holders and the community they represent. In searching for a tradition of localism in local government, evidence of its strength could be found through expressions of wanting to be free of central interference by those who own property in a bounded area, and asserting the right to decide its disposition.¹⁰¹

⁹⁹ B. Keith-Lucas, *The English Local Government Franchise. A Short History*, (Oxford: Basil Blackwell, 1952), p. 1

¹⁰⁰ Orr and Vince, “Traditions of Local Government”: 658

¹⁰¹ Webb and Webb, *English Local Government*, Vol. 4, 350-351

Within a tradition of localism there is the idea of place. People are linked to place and a common sense of the past.¹⁰² The idea of “sense of place” is one that encapsulates what is known and valued of human interactions, thought and experience in the setting of a local natural landscape. Rather than thinking of “place” as simply a Cartesian derivative of space, “sense of place” takes in the particularities of different regions and places.¹⁰³ It encapsulates the value of human being and experience within place as a matter of how the person finds themselves bonding within both the nature of, and significance, of a place.¹⁰⁴ “Sense of place” is bound up in lived physical, sensual and intellectual experiences, with the challenges of establishing a community in often harsh and difficult environments. Factors such as geographical isolation, kinship ties around families and/or faiths, or economic competition with other nearby communities can all contribute to the strength of ideas and beliefs within a localist tradition. Ideas such as “civic pride”, “local spirit” or even “municipal patriotism” may be found in defence of what constitutes the importance and recognition of a locality *and why it should be remembered*. As a downside, emotional investment and “sedimented symbolic associations” accrete on physical spaces such that they develop a potency (often termed “parochialism”) that resists new ideas and change from outside.¹⁰⁵ Localism therefore also contains expressions of parochialism as a narrow expression of local concerns, particularly when local institutions are under threat from external or central pressures to change or are likely to be lost.¹⁰⁶ Where outside threats present to the local area, the reaction is to put up barriers to change. Within localism there is the tendency to strongly assert the primacy of local culture and beliefs manifested through the idea of “community of interest” a concept that contains but is not limited to:

... ideas of common identity, affinity, collective perspective, sharing common concerns, sense of common purpose, core of commonality, sense of belonging,

¹⁰² Mike Featherstone, *Undoing Culture: Globalization, Post-Modernism and Identity*, (London: Sage Publications, 1995), p. 92. See also, R.C. Steadman, “Is it really just a social construction? The contribution of the physical environment to sense of place?” *Society & Natural Resources: An International Journal*, 16, no. 8, (2003): 671-685

¹⁰³ Jeff Malpas, “Finding Place; Spatiality, Locality, and Subjectivity” in *Philosophy and Geography III: Philosophies of Place*, edited by Andrew Light and Jonathan M. Smith, (Lanham: Rowman & Littlefield Publishers Inc., 1998), p. 22

¹⁰⁴ R.C. Steadman, “Towards a social psychology of place: Predicting behaviour from place-based cognitions, attitude and identity”, *Environment and Behaviour*, 34, no. 5 (September 2002): 561-581

¹⁰⁵ Featherstone, *Undoing Culture*, 107

¹⁰⁶ Orr and Vince, “Traditions of Local Government”: 659

a coherent social and economic whole, acting in the interests of community, speaking with a united voice...¹⁰⁷

Behaviours therefore can range from electoral popularism to an over-emphasis on the importance of local identity, economic progress and rights of local participation in decision-making.¹⁰⁸ While in the past sufficient common interests resulted in creation of community, “community of interest” appears to more now emphasise past historical and cultural continuities of interest and area. It is a “natural right” derived from historic development, established property rights and common economic interests.¹⁰⁹ In the context of Tasmania’s local government and its responses to the island’s geographical challenges, how significant have such challenges been in shaping a localist tradition?

The challenge or dilemma to localism comes from moves to change the spatial and political links of local identity. Place reflects cultural identity and values. In the context of modern local government practice, amalgamation of municipal entities with institutional demands for effective and efficient municipal structures is a key dilemma for localism. Resistance to increasing the size of a local government area is met with claims of possible loss of local identity for local communities, possible loss of history and cultural ties and no acknowledgment of the past and current efforts to create community in shaping a new larger entity. The desire to retain positive emotional bonds of place and self-identity becomes bound up with resistance to what is seen as central interference, particularly when the role a person plays, their identity, is critically linked to place.¹¹⁰ Identity and place are then asserted as claims of perceived lack of commonality and interest with other communities. Larger municipal areas developed through central demands for efficiency and effectiveness challenge the ability of individuals to take a full interest in their locality if it is so large as to be out of proportion to the capacity to do so.

Interlinked with localism are the traditions of voluntarism and representation – all three share the characteristic of being critically linked to the locality, property and identity of those people within a location.

¹⁰⁷ Helen Fulcher, “The Concept of Community of Interest”, Discussion Paper 2, prepared for the South Australian Department of Local Government, 1989, edited by Rose Bowey, (1991)

¹⁰⁸ Rootes, *Local Government Reform in Tasmania 1906-1939*, 14

¹⁰⁹ Chapman and Wood, *Australian Local Government*, 154

¹¹⁰ Steadman, “Towards a social psychology of place”: 565

Voluntarism

For the purposes of this thesis, this tradition of voluntarism is defined as one observed through examination of the evolution of local government in Britain. In this context, local government is underpinned by beliefs and ideas of “property and its diffusion” through public office.¹¹¹ Local government is empowered to speak and act on behalf of local communities and so action best reflects local preferences and demands. The will to act, although on behalf of and for the good of a community in a locality, is without coercion and reasonably free from outside constraints. The exercise of free will is embodied in being empowered to act with innovation and flexibility to suit local community conditions in the received best interests of those people they represent.¹¹²

The occupation of public office is acknowledged as a position of power and usefulness above that of other people in a community. Public office holders are therefore those in a local community best qualified to represent that group of people. Qualification is underpinned by the ideas of interest in property and capacity to carry out public duty that controls land.¹¹³ There is a connection between land ownership in a locality, either inherited or acquired, and qualification for public office which administers the locality. It is possible to historically trace the connection between land ownership as conferring a right to holding public office and its relationship to the development of local government.¹¹⁴

This local government based tradition is also bound up with ideas of patronage and ability to perform public duties without payment, the idea being the incumbent has personal wealth to act independently and so administer with a sense of fairness and equity. Being a symbol of impartiality, the tradition of voluntarism also includes a belief that local government actors will be non-political, dis-interested and free from control of central influence. The independence from supervision by central authority as absolute is an old idea only challenged by the increasing urbanisation of Britain in

¹¹¹ Mackenzie, *Theories of Local Government*, 5, 7

¹¹² A.H. Birch, *Representation*, (London: Pall Mall Press Ltd, 1971), 15; P.J. White, “Is voluntarism in decline?”, *Industrial Relations Journal*, 9, no. 3 (September 1978): 34-43; J. Mohan, “Voluntarism, municipalism and welfare: the geography of hospital utilization in England in 1938”, *Transactions of the Institute of British Geographers*, 38, no. 1 (March 2003):57

¹¹³ Chapman and Wood, *Australian Local Government*, 48

¹¹⁴ F.M.L. Thompson, *English Landed Society in the Nineteenth Century*, (London: Routledge & Kegan Paul, 1963), p. 17

the 1830s.¹¹⁵ The idea of being a-political rests on decision making being based on how property is managed by common agreement for the local good.¹¹⁶

Within this tradition there is also the belief that anyone who undertakes elected local government duties for their community is expected to perform without remuneration whenever required to do so “for the good of the community”. In terms of local government, the tradition of voluntarism can be observed developing through the creation of local authority concerned with dispensation of laws and justice and so becomes linked to elected local government members over time as the nature of local authority evolves. The equivalence of property ownership with an assumed right to public office is an old class-based idea in Britain that can be traced to earliest times as an agency of royal power.¹¹⁷

Modern local government practices pose various dilemmas to this voluntarist tradition. These include when access and equity office holders are not property owners, claim remuneration for service or use local government to promote party political policies. The perceived independence conferred in carrying out public office for a locality and in the best interests of that locality, is challenged by central authority demands of efficiency and effectiveness and the practice of replacing elected people by professional unelected office holders to administer a locality.

Voluntarism is linked to a third local government tradition of representation. The former is about who occupies local office, the latter concerns itself with who has the right to select such an office holder.

Representation

Representation has many understandings, it is complex and difficult to define.¹¹⁸ In the context of being a local government tradition, representation is bound up with ideas and beliefs of what franchise signifies and how it is exercised by people, as individuals and representors in a specific locality. There is the belief that a representor has accorded to them a qualified right to choose the person or persons

¹¹⁵ Hennock, *Fit and Proper Persons*, 6

¹¹⁶ J.G. Bulpitt, *Party Politics in English Local Government*, (London: Longmans, Green and Co Ltd, 1967), 1-3

¹¹⁷ James Thompson, *An Essay on English Municipal History* (London: Longmans, Green and Co., 1867), 35; W. Thornhill, ed., *The Growth and Reform of English Local Government*, (London: Weidenfeld and Nicolson, 1971), 1

¹¹⁸ Birch, *Representation*, 21. See also *The Palgrave Macmillan Dictionary of Political Thought*, 3rd ed., s.v. “representation”

that best reflect a locality's population, identity and qualities to act as office holders on the community's behalf (representatives) and to hold them to account. While voluntarism has ideas of deputisation as agent or spokesperson, representation in this context is differentiated by the right of representors to choose their representative(s), to confer the authority of government of a locality as mandate. How this authority is conferred (as franchise, as the means of exercising a vote) and who has the right to express a choice depends on who is admitted to the common will of the locality.

Representors then as voters can not only elect others to act on their behalf, they also have the right to participate in local decision-making at meetings when called on. As a local government tradition, representation is underpinned by a principle that every decision of the majority has to be accepted and treated as if it were unanimous.¹¹⁹

This tradition is bound up with localism and voluntarism in those ideas of property ownership not only entail a duty of public office but also provide the qualification to express an opinion and vote in the locality in which property is located. Property qualification, as with voluntarism, is the crucial determinant in exercising the liberty to participate as a voter. It links this capacity to exercise the power of local participation in decision-making with creating a sense of community underlain by a need or want for local self-reliance, based on a set of values shared by those who can vote.¹²⁰ Political activity focuses on a geographical location, is located by where people live, either in preference to the desires of any external leaders or as an organising expression of external leadership. Voting behaviour is by choice, rather than compulsion, underpinning the idea that those who do vote to elect office bearer or participate in a meeting have a real interest in what happens in, and to, a locality. They will act on this interest without compulsion, and are therefore the best qualified to make choices about property and its diffusion. With a restricted number of representors, decision-making tends to be based more on common agreement, with voting only a technical means of settling a question, underpinned by a belief that public division over local decisions is to be avoided, let alone distorted by any party political consideration.¹²¹

¹¹⁹ Keith-Lucas, *The English Local Government Franchise*, 201

¹²⁰ David Morris and Karl Hess, *Neighborhood Power: The New Localism*, (Boston: Beacon Press, 1975), 14

¹²¹ Bulpitt, *Party Politics in English Local Government*, 1-2

Where people seek to institute a viable system of local democracy and government to meet the demands of growing urban areas and an increasingly complex set of local government roles, it poses as set of dilemmas to the tradition of representation. Universal suffrage was at one point considered the “grave of all temperate liberty, and the parent of tyranny and licence.”¹²² It is an idea that some of us would laugh at today, given the widespread practice of the idea. Ideas of universal suffrage challenge the property base as the qualification for voting. Application of universal suffrage that does not discriminate on gender or economic position, results in each person’s vote having equal value – “one person, one vote” with the equality of the individual equated to an equal say in the running of government.¹²³ Larger municipal areas with elections run on universal suffrage provide the opportunity for political party policies to become the basis of decision making on how property is diffused, let alone a platform for testing such policies. Voting enables even those without property in a locality, such as renters, to participate in its control. Representation is further diluted where the means of voting enables minorities to be represented or their concerns to be given more weight in any decisions. Compulsory voting denies the idea of active participation by interested people; it is even argued it disregards the merits of what is being voted for if a vote is cast “merely to escape a fine”.¹²⁴ The idea of control by a privileged group being shifted to control by everyone in a locality challenges the primacy of property ownership as a key enabler to local government participation or indeed, its relevance in modern local government practices.

Conclusion

This section proposed the use of tradition and dilemma in developing an interpretive analysis of the meaning of local government. The use of traditions can draw on the ideas and beliefs of people and so provide an insight as to how people are likely to respond in practice when faced with dilemmas that challenge the beliefs and ideas passed on over generations. For this thesis’ purpose, a set of traditions is proposed to address the problem of resistance to Tasmanian local government reform,

¹²² Earl Russell, *English Government and Constitution*, 263, quoted in James Lorimer, *Constitutionalism of the Future*, (Edinburgh: Adam and Charles Black, 1865), 188

¹²³¹²³ Iain MacKenzie, *Politics: key concepts in philosophy*, (London: Continuum International Publishing Group, 2009), 111

¹²⁴ Bland, “Is there a future for local government?”: 218

particularly amalgamation. This section concluded by proposing three local government traditions relevant to the problem under consideration with particular reference to Tasmanian local government history and its roots in England – localism, voluntarism and representation.

CHAPTER 3 CONCLUSION

To understand the problem of reform in Tasmania's local government, this chapter argued the case for a decentred approach to local government to inform an understanding of what local government means to the people involved in it. A literature search reveals local government has many meanings however this public policy scholarship is located in institutions, not people. This chapter argued the case for reversing the gaze away from institutions so the public policy researcher will instead see people. The value of using an interpretive approach acts as a counter to the institutional approaches more frequently used in public policy. A people-orientated interpretive approach provides an alternative to institutional explanations for behaviour and events and therefore possible further thicker understanding why public policy fails or succeeds.

Developing traditions based on historical analysis and listening to people in the field is likely to allow a different understanding and meaning to emerge from responses to public policy ideas and practices. Using Bevir and Rhodes work on traditions, three interlinked traditions are proposed (localism, voluntarism and representation) in exploring the problem of resistance to reform in Tasmania's local government. As Tasmanian local government institutional practice is derived from British local government, using this interpretive approach enables the ideas and beliefs of traditions to be traced over time, and how they have persisted or changed in response to dilemmas.

Having argued for the underlying thinking, Chapter 4 will outline the methodology behind this project.

PART I: APPROACHING THE PROBLEM

CHAPTER 4: METHODOLOGY – HOW TO FIND WHAT LOCAL GOVERNMENT MEANS

CHAPTER 4 INTRODUCTION

This chapter begins by explaining how the researcher arrived at choosing an interpretive approach. It considers whether there are any problems with it and how they can be addressed. The research design seeks to emulate Oakeshott's comment on the pattern of practice, talk and considered writing. It proposes to examine the *pattern of local government practice* to develop the propositions of various traditions through available documentation. These are developed through both *talk* and *considered writing*. The chapter outlines choice of interview subjects, development of interview questions, interview protocols and data collection and analysis. In considering written sources on local government, a cross discipline approach was needed to find sufficient material. Some final qualifications on how the project was carried out conclude the chapter.

PART I: APPROACHING THE PROBLEM

CHAPTER 4: METHODOLOGY – HOW TO FIND WHAT LOCAL GOVERNMENT MEANS

The pattern of practice, talk and considered writing – the first is most reliable, the second is the most copious and revealing and the third is the most difficult to interpret. (*M. Oakeshott*)¹

Introduction

This short chapter covers the methodology used in finding out what local government means. It covers the logic of arriving at the approach taken and considers briefly any problems with such approach. The research design is based on the quote above, in that it considers local government practice in England and in what is now Tasmania and from that propositions are suggested and considered through the lens of an interpretive approach. It concludes with some final qualifiers.

The logic of how a interpretive approach was chosen

To recap a little, this thesis is trying to understand the problem of why reform of local government in Tasmania is so difficult. The perspective of the writer as both a graduate student of institutional public policy, and as an elected person in Tasmania's local government, resulted in confusion when attempting to marry rationalist institutional theory with the actual practice of local government to understand resistance to reforms such as amalgamation.

The first clues that an institutional approach was only providing part of the answer arose as part of an Honours thesis when two sets of Southern Tasmanian Councils chose to enter into resource sharing agreements, rather than amalgamate.

Amalgamation, from the perspective of creating greater efficiencies for the organisations, seemed a logical choice from an institutional perspective. Talking to the Mayors and General Managers as part of field work revealed that for these

¹ M. Oakeshott, *The politics of faith and the politics of scepticism*, ed. Timothy Fuller (New Haven: Yale University Press, 1996), x

Councils, the idea of creating and maintaining community provided a greater influence in policy choices.²

Reading Tasmanian local government reform sources, it quickly became evident that consolidation reforms, especially amalgamation, were problematic. Local government practitioners and their communities were not giving as much importance to State Government demands for greater financial efficiencies and effectiveness in local government practices as the State would wish. A literature review of local government development and origins in Australia and the United Kingdom revealed that ideas and beliefs of what local government meant were variable and largely centred on institutional practices. Institutional reform was a constant theme in both the English and Australian literature.

If institutional reform was resisted, why weren't the reasons for institutional failure to reform evident? To resolve this, a choice was made to look away from institutions and towards what people had to say about the importance of local government, as elaborated on in the theory chapter. In effect, one logic was to be swapped for another, an interpretive approach, in re-considering the practice of local government, how people talk about it and an analysis of various written sources.

This is where the choice of an interpretive approach comes in. The gap between institutional public policy theory and rational expectations of behaviours and the actual words and actions of local government practitioners when faced with reform caused the researcher to question what was occurring but unsure of how to address the conflict. A seminar at UTAS by Professor Rod Rhodes on the usefulness of interpretive theory in understanding governance provided the final insight for application to this problem of understanding conflicting behaviours. Rather than focusing on history and institutions, the mirror is reversed to focus on people, on their traditions, embedded beliefs, actions and practices as another way of understanding local government, and in particular, Tasmania's.

A political history using an interpretive approach makes it possible to draw out a greater range of answers for why people react to public policy in particular ways. Institutional approaches have centred on institutions in explanations of policy outcomes. There has been a consistent focus on local government institutions and

² See E. Ruzicka, *Local Government in Tasmania: Beyond Amalgamation*, (Hons. thesis, University of Tasmania, October 2007)

practices in reform debates, on reshaping institutions through legal means, by introducing new administrative practices, including financial matters and updating of electoral rights. Why then is reform a constant policy issue that dominates thinking on local government in Tasmania?

An interpretive approach looks away from the embedded beliefs and practices of institutions, of official accounts as prime in understanding meaning. Using the method of seeking and telling stories opens up how the development of beliefs and practices over time, as traditions, influences such behaviour and practices. Hidden beliefs and values emerge and allow new meanings to be considered and fresh conclusions to be drawn.

Using this interpretive approach this thesis aims to explore and understand the underlying cultural causes that affect people's actions and reactions to policy debate and outcomes. It will be used to understand what influences the participants in reform debates, those doing the reforming, and those having it done to them.

Are there strengths and weaknesses with an interpretive approach?

Yes, there are strengths and weaknesses with an interpretive approach. Malterud highlights a researcher's background and position as affecting both the subject of investigation and how this is done, and the findings considered most appropriate and how these are finally presented for discussion to a wider audience.³ Researcher bias is a possibility however ignoring subjectivity of the researcher is the key issue. The same applies for institutional approaches.

A number of reflexive strategies were employed to counter weakness. At each step of constructing and writing this thesis, the writer has personally questioned whether her pre-conceptions have influenced the research and outcomes. Identifying pre-conceptions and questioning their validity through reading widely and outside of familiar public policy sources in order to systematically acquire knowledge has been one strategy to overcome this. Constantly questioning the use of sources and interpretation of the same has been another – were there counter arguments, in effect? Using a different theoretical approach to challenge an institutional mindset has been another, to view the world differently. A conscious decision was made to

³ K. Malterud, "Qualitative research: standards, challenges, and guidelines", *The Lancet*, 358 (11 August 2001): 483-484

keep a distance between the role of researcher and that of contributor as an elected person to debates over various reforms for the duration of the thesis project when it may have been likely to influence outcomes – effectively to choose at times to stand outside and observe, rather than influence.

Rhodes makes the point in examining understandings of networks that each person has significant differences in understanding what the term “networks” means.⁴ This applies of course to choice of ideas and beliefs in the construction of traditions of local government. Sharing preconceptions and transparency in constructing meaning is the counter-action. It is to be expected that the researcher brings to the interview preconceived ideas built up from research, anecdotal and local government experience, however the key is not to confuse these with new knowledge obtained from the interviews. Challenging preconceived ideas with new knowledge and beliefs *does* create a greater understanding of meaning. In addition, having a researcher with experiences and knowledge outside of an academic circle that can be included in knowledge construction can only be valued for the richer layer added to interpretation.

Acknowledging that the researcher is currently an elected representative (an Alderman in a large urban council) there is a possible conflict and difficulty maintaining a sufficient distance from the research subject (to the extent that at one point consideration was even given to the merits of resigning from the elected position altogether). If this is viewed as a weakness in terms of its effect on the research, it is also brings strength. The opportunity to be in the position of being inside the local government tent with the capacity to develop trusted relationships with other elected local government people, particularly the Mayors outside of the researcher’s municipality, and to observe debates during reform periods has enabled insights to viewpoints rarely afforded to external policy researchers. Being an “insider” bought more strength than weakness to this research process. Trust with research subjects can be difficult to establish in communities where elected positions are subject to political pressures and local scrutiny. Being an elected practitioner enabled the establishing of a relationship of trust with interview subjects simply because of a shared understanding of local government in Tasmania that is denied to

⁴ R.A.W. Rhodes, “Putting People Back Into Networks”, *Australian Journal of Political Science*, 37, no. 3 (2002): 412

other researchers. To avoid any actual or perceived conflicts, the researcher often choose not to participate in local government debates associated with reform during the period of this project so as to prevent any perception of bias and ensure sufficient distance from the subject, rather, she simply sat and listened. As such, it was the reason for not seeking re-election to the position of Deputy Lord Mayor during the time of field interviews. The problem of distance and impartiality has been reflexively considered, especially whilst interviewing local government practitioners. As such, no confidential material is included or has been drawn upon. The researcher has been scrupulous in ensuring all research materials drawn upon (other than interviews) are in the public domain and can be easily accessed by others to verify the data.

There is the issue of interpretation and reliability. Roe comments that every “society, whatever its size and almost by definition as a society, forms a view of *its* past and *the* past. The nature of society will dictate the nature of its historical view...”.⁵ It is important then to find out what others understand and to take care how interpretation is applied when analysing results. Making sense of the transcripts and choices of particular quotations was a process of de-contextualising the content of transcripts into various groupings that resonated similar issues in the use of language and then re-contextualising them within the constructed traditions in the analysis.

Commentary in various chapters will further illustrate this. Problems with personal narratives that hint at rhetoric are capable of being vetted with careful analysis of context.⁶ Interview techniques of seeking clarification and context are useful tools. Sanders contends “...that different theoretical positions are likely to elicit different descriptions of ‘reality’ – that they are likely to produce different ‘observations’.”⁷ These concerns can be countered by ensuring that the analysis is kept within the wider web of traditions of which it is a part and that it is located within the appropriate timeframe. New dilemmas may well significantly alter a later re-reading of findings but that would then be in another context of time and people. Reliability of the findings is therefore not an issue as the problem under consideration is limited and highly defined. There is no intention of extending or generalising any findings

⁵ Michael Roe, “The Value and Interest of Local History”, *Tasmanian Historical Research Association Papers and Proceedings*, 17, no. 4 (December 1969): 113

⁶ Sanjek, “Keeping ethnography alive in an urbanizing world”: 281

⁷ David Sanders, “Behavioural Analysis” in *Theory and Methods in Political Science*, eds. David Marsh and Gerry Stoker, (Houndsmill: Macmillan Press Ltd, 1995), 67

to local government systems elsewhere – the intent is to understand one system only in the context of the problem raised.

A criticism of using an interpretive inductive approach is that it is impossible to arrive at any explanatory theory following a purely inductive approach because not all the facts will be or could be known.⁸ The response for this thesis is to set a timeframe and acknowledge this limitation when developing explanations. This has been done. Criticism is levelled at interpretive methods in that the methods to elicit information can range so widely as to include interpretations of interpretations, rather than “hard data” and “facts”. The key is to ensure that the interpretation of actions and practices are informed by a transparent understanding of beliefs and ideas as traditions.⁹ As part of the design process there has been a need to specify a set of referents to work with and then to justify sufficiently in the mind of the reader evidence for change in the direction of decline according to these reference points. This does not imply a restrictive approach. It includes an understanding of the wider situation of world history and its impact on local issues. Another consideration will be the temptation to look only at readily observed phenomena in both the institutional accounts and personal narratives. Less readily observed phenomena, such as the use of power in imposing subjective interests, are harder to look for.¹⁰

There may an additional problem of corruption of interpretative approaches through “fear of giving offence...especially if (as is quite likely) that (a) fellow-citizen has provided information, or might do so in the future”.¹¹ Again, design of data collection and presentation of personal narratives will be key to overcoming this aspect, particularly in the comparatively politically intimate communities of Tasmania.

The ideas and beliefs of local government traditions developed in this thesis will be affected by interpretation. However, the possible weaknesses are acknowledged and countered with strengths in researcher reflexivity.

⁸ Sanders, “Behavioural Analysis”, 67

⁹ Bevir and Rhodes, “Interpretation and its Others”: 178

¹⁰ Sanders, “Behavioural Analysis”, 66

¹¹ Roe, “The Value and Interest of Local History”: 114

Research Design Approach

After initial discussions and readings suggested by Professor Rod Rhodes, the research design is based on a quote by Oakeshott:

The pattern of practice, talk and considered writing – the first is most reliable, the second is the most copious and revealing and the third is the most difficult to interpret.¹²

Firstly local government practice is examined in both England and in what is now Tasmania. From this a proposition is derived and is tested by interviewing Tasmanian mayors. Finally, consideration of what is written about local government is undertaken through the lenses of an interpretive approach.

The pattern of practice: Documentation

Tasmanian local government reform is documented in various State government publications. Responses to reform proposals are located in local government documentation and media publications. Most research discovered to date focuses either on institutional development or historical recording of facts of these political institutions. Very little delves into *why* people behave, especially in reaction to reform. Is it treated as irrelevant or just simply falls outside the parameters of rational research and is therefore evidence discarded through the series of inquiries into local government that have occurred to date? Why is reform a recurring debate with a battleground of ideas between State governments, Councils and the communities they represent? Why do Councils and their communities choose to act in ways opposite to State government demands? For example, local government's lobbying of the Legislative Council when stripped of water and sewerage functions, to retain a structure of three regional organisations when a statewide institution would provide greater strategic and economic capacity. Why is there resistance to policies such as reduction in elected representation of communities and introducing a state wide planning scheme if indeed such policies save money and improve the effectiveness of local government? The question then arises, what is it then about people that they do not conform to *institutional* expectations when reform of local government is proposed?

¹² Oakeshott, *The politics of faith and the politics of scepticism*, x

Propositions:

This thesis research is based on the proposition that local government be considered not just in an institutional form but also understood as sets of ideas and beliefs (traditions) drawn from expressions of local autonomy, local representation and local identity. The historical record demonstrates that local government is such an intrinsically human activity that to deny shared beliefs and values runs completely counter to what humans are. As a first attempt at understanding the problem at hand, three traditions are proposed – localism, representation and voluntarism.

Written sources provide evidence of local government traditions in Britain and their presence in Tasmania throughout attempts to reform local government. If the evidence demonstrates that the ideas and beliefs are more closely aligned to those present in England prior to its second period of reform, then have these ideas and beliefs persisted, and if they have, is this an explanation for why reform has been or may continue to be, so difficult? Can the presence of such ideas and beliefs still be found if we go out and talk with local government people, to listen to what they are saying, or indeed, do we find counter ideas and beliefs?

Talk: Interviews with Mayors**Overview**

The original research design proposed interviewing all local government practitioners (elected and employed) in Tasmania, as well as other relevant Federal and State policy makers, and relevant groups of citizens. This was overly ambitious given that at the outset the number of interviews might well have exceeded three to four hundred subjects at an hour each for interview plus transcription time and analysis. In the end, it was considered consistent to focus in this first attempt on the elected Mayors. There is no reason why follow up research cannot consider other subsets, such as the General Managers, key Council staff or Aldermen/Councillors, other than problems of the total size of these samples and problems of lack of historical resources on which to bring to light evidence of beliefs and values. Other sources used in this thesis (historical documentation such as media and government documentation) tended to quote Mayors. Even if interviews were limited to all elected people in Tasmania, the results would be likely to give a lopsided view limited by the lack of historical material to draw upon. For consistency sake, the focus on the Mayors was the final choice. If the propositions for this thesis hold,

then there is no reason to attempt further research however the design would be very different to take account of group sizes and limitations of historical material.

Mayors of municipalities are identified as local government leaders and as spokespersons for their municipality. Their current function is designated in the *Local Government Act 1993*:

The functions of a mayor are–

(aa) to act as a leader of the community of the municipal area, (and)

(b) to act as the spokesperson of the council...¹³

Interviews provide an opportunity for examining personal reflections, to bring to light beliefs, values and explanations for actions in response to events. The writer's previous experience with this group indicates that narratives of local government are more reflective of existing practice than received knowledge.¹⁴ Through use of carefully constructed questions that invite long responses, by eliciting examples of practice, much can be revealed of this group of elected local government people have responded over time to various dilemmas. Simply sitting and listening reveals much:

Listening is a rich idea, that joins together the small places and setting of ordinary life, personal encounter and exchange, with the large setting of public life, political arrangements, social structures, and what we regard as our culture. Listening, it might be suggested, is key to how we communicate – and form and sustain our various communities.¹⁵

A questionnaire was designed around historical, present day and future possibilities for local government to elicit the presence of values associated with local government practice (*Table 4.1: Questionnaire*). It included a SWOT analysis (strengths, weaknesses, opportunities, threats) that would enable participants to consider what local government meant. Responses would be considered for evidence of the ideas and beliefs of the three traditions being considered.

¹³ Tasmania, Parliament, *Local Government Act 1993 (No. 95 of 1993)* Division 2 (Councils) Section 27(1)

¹⁴ See Ruzicka, *Local Government in Tasmania: Beyond Amalgamation*

¹⁵ Gerard Goggin, "Disability and the Ethics of Listening", (Lecture delivered at the Inaugural Christopher Newell Memorial Lecture, Hobart, 1 October 2010)

Table 4.1: Questionnaire

Topic Area 1: Historical Question: How did local government come into existence in Tasmania? Question: How and why has Tasmanian local government changed over time, if at all?
Topic Area 2: Present-Day Question: Do you see Tasmanian local government as primarily a geographical entity or a functional entity? Question: Does Tasmania's local government have a democratic function? Question: What do you see as Tasmanian local government roles and functions? Question: What are its strengths and weaknesses? Question: What opportunities and threats does it face?
Topic Area 3: Future Question: What future role and functions do you see for Tasmanian local government? Question: What form do you see Tasmanian local government taking?

Participants

On this basis, interviews were requested from the Mayors of twenty seven of Tasmania's twenty nine municipalities. Of the twenty seven, fourteen responded positively. The Mayors were interviewed over the period of late 2013 to late 2014. The timing of interviews was a matter of availability of the Mayors and capacity to undertake the interviews on the part of the research. Timing was not critical to the project. Fortunately, with only half of the Mayors agreeing to be interviewed, there was an even urban-rural spread of Councils. Only one participant requested non-attribution of quotes and to achieve this, the quotes from all the interviews are coded. Given the small number of participants quotes were coded based on the Australian Classification of Local Government sourced from the Advisory Council for Inter-government Relation (ACIR). The content, rather than the person, would be initially read and considered (*Table 4.2: Interview Codes*).¹⁶ A decision to not use the most recent ACIR classifications was based on the observation that the more finely graded classifications were inclined to identify more clearly the location of participants' municipalities, thus defeating the single request for non-attribution of quotes. Where appropriate, some identifying details were omitted from quotes to meet this request.

¹⁶ Australia, ACIR, 1994, *Australian Classification of Local Governments*, AGPS, 6-7

Table 4.2: Interview Codes

ACIR Classification	Code	Number of participants
Urban Capital City	UC	1
Urban Fringe	UF	3
Urban Region	UR	3
Rural & Remote	RR	7

Interview protocol

Appropriate ethics permissions were sought and obtained.¹⁷ No confidential material was sought and the need to exclude any from the recorded interview was explained prior to any interview. King and Flinders Island Mayors were excluded simply on logistical grounds and travel costs of getting to the islands as the desire was to record interviews on a face to face basis. Questionnaires were provided beforehand for participants to enable them to consider their responses and start a process of reflection. Interviews were conducted in locations suitable to the interview participant, recorded and transcribed. Each participant was advised at the beginning of the interview that there were no right or wrong answers to any of the questions; each was asked to simply say what they knew and understood. The aim was to encourage participants to speak widely from their own personal knowledge and experiences of local government. This would enable studying beliefs as they appear and even frame their local government practice and responses to institutional reform.¹⁸

Data collection and analysis

The interviewee's responses were audio-recorded and transcribed. Qualitative software NVivo 10 was used to visualise and sort through the responses to questions by coding and grouping as a process of de-contextualisation. By then reviewing and matching the evidence provided an enhanced ability to consider whether responses were consistent in seeking evidence of the strength of values and beliefs that matched

¹⁷ University of Tasmania Ethics Reference No. **H0010337**

¹⁸ Bevir and Rhodes, *Interpreting British Governance*, 17

with three chosen traditions.¹⁹ As access to qualitative software such as this came very late in the project it was only used for the interview content, not in analysis of written sources, although in hindsight it would have made such a project much easier to manage.

As mentioned earlier, making sense of the transcripts and choosing particular quotations evolved through de-contextualising the content of transcripts into various groupings that resonated similar issues in the use of language and then re-contextualising them within the constructed traditions in the analysis. Construction of traditions based on historical materials necessarily results in a cloud of beliefs and values expressed in language use that resonates in both the written and oral sources. Identifying a localism tradition involves signposting language around identity, sense of place, community of interest, custom and parochialism. Likewise for voluntarism there is the language of duty, hierarchy, property and obligation while for representation there is franchise, participation, suffrage and voting. In some cases, interviews yielded a rich source of quotations and it was a matter of choice as to the best one to use to interpret what was being said. An interpretive approach is not a quantitative approach, so it was not a matter of how many said it the most, rather the *consistency* of the expression of the beliefs and values in the interviews, and whether this was consistent with the traditions or counter to them. Counter expressions were treated as evidence of changes in beliefs and values and were considered in the context of dilemmas.

Considered Writing: Interpreting what is written about local government

An administrative literature review of Tasmanian local government provided a limited insight into its origins and development although there have been a number of contributions post-World War Two.²⁰ *The Guide to Tasmanian Government*

¹⁹ P. Bazeley and Kristi Jackson, *Qualitative Data Analysis with NVIVO*, 2nd ed., (London: Sage Publications Ltd, 2014), 7-9

²⁰ See as examples, Ralph Chapman, *Local Government Reform in Tasmania*, (Hobart: University of Tasmania, 1973), *The Report of the Board of Inquiry into Local Government in Launceston and Related Areas, March 1979*, (Hobart: Tasmanian Government Printer, 1979), and “Tasmania” in *Local Government Systems*, ACIR Information Paper No. 7, ed. Power et al.; “The Role of Local Government in Australia”, *Local Government Restructuring in Australasia*, ed. Ralph Chapman, Marcus Haward, Bill Ryan, (Hobart: Centre for Public Management and Policy, University of Tasmania, 1997); R.L. Wettenhall, The Introduction of Public Administration into Van Diemen’s Land, Part I”, *Tasmanian Historical Research Association Papers and Proceedings*, 7, no. 3 (January 1959): 44-57, “The Introduction of Public Administration into Van Diemen’s Land, Part II”, *Tasmanian Historical Research Association Papers and Proceedings*, 7, no. 4 (June 1959): 66-77, “Tasmanian Local

Administration simply outlines local government institutional development through the areas of public works, town planning, policing the local community and municipal administration. Local government is portrayed as an administrative arm of the State suitable only for collecting indirect taxation for services undertaken on behalf of the State and performing devolved services.²¹ By writing on institutions rather than people, major historical and political writings have neglected or downplayed the evolution, role and influence of local government actors, their beliefs and the traditions within which they lived, and the beliefs they brought to institutions. The struggle for reform in Tasmania is a strong theme, with the most recent work providing some clues through “top down-bottom up” policy analysis as to why reform may have been largely unsuccessful until near the end of the twentieth century and thus prompting consideration of analysis using traditions.²² To write off failed reform as the actions of the Legislative Council being more protective of local government than the interests of the State or simply the effects of parochialism²³, does not seem a full explanation as to why local government reform has been so difficult. The literature did however point back to the development of English local government which in turn lead to a cross discipline literature review in the field of early English and Tasmanian local government and history.²⁴ Historical

Government at the Crossroads” *Public Administration*, 21, no. 4 (December 1962): 378-387, “Municipal Reform in Tasmania”, *Tasmanian Architect*, (August 1966): 23-4, 3-35

²¹ Wettenhall, *A Guide to Tasmanian Government Administration*

²² I. Zwart, *Local Government Amalgamation in Tasmania*, (BA Hons thesis, University of Tasmania, 1997); Haward and Zwart, “Local Government in Tasmania: reform and restructuring”: 34-48

²³ Stefan Petrow, “The State” in A. Alexander, ed., *The Companion to Tasmanian History*, (Hobart: Centre for Historical Studies, University of Tasmania, 2005), 483-490

²⁴ As an example various sources either revealed others in turn or illustrated a paucity of scholarship on Tasmanian beliefs and values. For Labor, what happened on the mainland of Australia is difficult to relate to Tasmanian conditions given different rates of development and types of society. See Richard Davis, *Eighty Years’ Labor: The ALP in Tasmania, 1903-1983* (Hobart: Sassafras Books and University of Tasmania, 1983) and Patrick Weller, “The Organisation of Early Non-Labour Parties in Tasmania”, *Tasmanian Historical Research Association Papers and Proceedings* 18, no. 4 (October 1971): 137-148. Contrast this with writing on Labor such as Verity Burgmann, *‘In Our Time’: Socialism and Rise of Labor, 1885-1905*, (Sydney: George Allen & Unwin, 1985); Vere Gordon Childe, *How Labor Governs. A Study of Workers’ Representation in Australia*, 2nd ed., (Parkville: Melbourne University Press, 1964); Mark Hearn and Harry Knowles, *One Big Union: A History of the Australian Workers Union 1886-1994*, (Melbourne: Cambridge University Press, 1996); D.J. Murphy, ed., *Labor in Politics: the state Labor parties in Australia 1880-1920*, (St Lucia: University of Queensland Press, 1975); Tom O’Lincoln, *United We Stand: Class Struggle in Colonial Australia*, (Carlton North: Red Rag Publications, 2005); William Guthrie Spence, *Australia’s...Awakening*, (Sydney: The Workers Trustees, 1909). Historical sources proved useful sources of other scholarship on State and local government including Alison Alexander, *Glenorchy 1804-1964*, (Glenorchy: Glenorchy City Council, 1986); Alexander, Alison and David Young, *Glenorchy 1964-1998*, Glenorchy: Glenorchy City Council, 1998; Alexander, Alison, *The Eastern Shore:*

sources in turn provided further sources for investigation of primary source archival government sources and print media. As a form of political history, this thesis is a reversal of previous means of analysing local government in Tasmania, history being a process of learning or knowing by inquiry. This political history seeks to inquire into the culture of both the state and the social organism it seeks to govern. Available sources focus on the institutions of the State. In this case it is the compass of beliefs and ideas that need to be taken into account – not just those of institutions (in this case, local, state and federal political institutions), but also people. From these and other public policy literature sources the initial choice of local government traditions was derived, “reflecting the experiences of the time and the broader society conception of the state’s role in a former and developing economy”.²⁵

A final qualifying remark

This thesis concerns itself with local government in Tasmania *alone* simply to keep the project to a manageable size. Further, the historical record of Tasmania as a society and economy illustrates it developed at a different pace and nature to the rest of the Australian States and Territories. Past researchers in this field have noted the “considerable variations” between the States and how this clearly affected the development of local government.²⁶ There are significant variations in penal administration, development of representative government institutions and the timing of these, population growth and spread and differing rates of economic development and reasons for this.²⁷

a history of Clarence, Rosny Park: Clarence City Council, 2003; Stefan Petrow, *Sanatorium of the South? Public Health and Politics in Hobart and Launceston 1875-1914*, (Hobart: Tasmanian Historical Research Association, 1995), “Economy, Efficiency and Impartiality”: 242-266, “Municipalisation in Australia: The Case of Launceston 1880-1914”, *Australian Journal of Politics and History*, 56, no. 4, 2010: 521-539; Petrow, and Alexander, *Growing With Strength*; Reynolds, *Launceston: History of an Australian City*; Michael Roe, “The Establishment of Local Self-Government in Hobart and Launceston, 1845-1858”, *Tasmanian Historical Research Association Papers and Proceedings*, 14, no 1 (December 1966): 21-45; R.J. Solomon, *Urbanisation: The Evolution of an Australian Capital*, (Sydney: Angus and Robertson Publishers, 1976)

²⁵ Orr and Vince, “Traditions of Local Government”, *Public Administration*, 87 no. 3 (2009): 657-658; Wanna and Weller, “Traditions of Australian Governance”: 63-94

²⁶ Power et al., *Local Government Systems of Australia*, 7

²⁷ See for example, Mark R Sayer, “The Dispossessed and Dispossession – the Possessors and Their Possessions. Two Factors to Consider About Why Tasmania Has a Relatively Small Proportion of Qualified People”, (paper presented to the Tasmanian Skills Conference, Launceston, 18 May 2009), 3-4. See also in Bibliography section General Reference Books various titles useful to understanding Australian politics and history, in particular Hugh V. Emy, *The Politics of Australian Democracy*, (South Melbourne: The Macmillan Company of Australia Pty Ltd, 1974); Paul Kelly, *The end of certainty*, (St Leonards: Allen & Unwin, 1992)

These issues alone inhibit generalisation on the part of the researcher and they signpost issues with repeatability or reliability if the researcher were to investigate local government in each State and Territory of Australia.

Researching sources for local government in Tasmania was problematic in that they either tended to fall into a historical-comparative category or narrow applications of the formal-legal method.²⁸ Other than in the discipline of history, the available public policy material is limited to either post-graduate explorations of very specific interests²⁹ or material published through State-generated inquiries and commissions.³⁰

The bulk of material is best described as administrative history, concerned “with the relations between institutions and individuals, and with the connection between systems of administration and (Tasmania’s) societies to which they belong(ed).”³¹

As such, to explore how the ideas of local government developed in Tasmania,

and W.A. Townsley, *The Government of Tasmania*, (St Lucia: University of Queensland Press, 1976)

²⁸ See Chapman, “The Role of Local Government in Australia”; Haward and Zwart, “Local Government in Tasmania: reform and restructuring”: 34-48; Power, et al., *Local Government Systems of Australia*

²⁹ See F.E.R. Gilbert, *The Transition and Transformation of Local Government in Tasmania*, (Dip. Pub. Admin. Thesis, University of Tasmania, 1959); T.S. Ngui, *Some Aspects of Hobart City Council Elections*, (Hons. thesis, University of Tasmania, November 1969); R.J. Purves, *Financial Assistance by the State Government to Municipalities incorporated under the Local Government Act 1906*, (Dip. Pub. Admin. thesis, University of Tasmania, 1959); G.I Stabb, *Local Government by Commission: with special reference to Clarence and Kingborough Municipalities*, (Dip. Pub. Admin. Thesis, University of Tasmania, 1965); Grant Rootes, *Local Government Reform in Tasmania 1906-1939: with special reference to the North West Coast*, (M.A. diss., University of Tasmania, 2004); Grant Rootes, *A Chaotic State of Affairs? The permissive system of local government in rural Tasmania 1840-1907*, (PhD thesis, University of Tasmania, 2008); M.W.L. Tucker, *Administrative Reform in Tasmanian Local Government*, (Hons. thesis, University of Tasmania, October 1985); V. Gabriel Williams, *Local Government Reform 1906-07: A Permanent Panacea?* (Hons. thesis, University of Tasmania, 1959); Michael Wood, *Decision Making and Influence in a Tasmanian City: A Study of Glenorchy City Council*, (Ph.D. diss. University of Tasmania, October 1973); Ivan C. Zwart, *A Greener Alternative? Deliberative Democracy Meets Local Government in Australia*, (Ph.D. diss. University of Tasmania, June 2003)

³⁰ See for example B. Felmingham and C. Attwater, *Amalgamation Issues Analysis Prepared for Glenorchy City Council*, May 1991; M. Brooks, N. Groenwald and A.J. Hagger, *An Economic and Statistical Analysis of Local Government in Tasmania*, (Centre for Regional Economic Analysis, Hobart: University of Tasmania, August 1991); Access Economics Pty Limited, *A Review of the Financial Sustainability of Local Government in Tasmania. A report for the Local Government Association of Tasmania*, (Tasmania, 2007); Tasmania, Local Government Board, *Principles for Voluntary Mergers Report*, Hobart, Tasmania, 2010; Tasmania, Local Government Board, *Report on a Potential Merger: Break O’Day and Glamorgan Spring Bay Councils*, Hobart, October 2009; Tasmania, Premier’s Local Government Council, *Communiqué Meeting 32: 29 July 2010*, Hobart, July 2010; Tasmania, Premier’s Local Government Council, *Local Government: Shaping the Future*, Hobart, October 2010

³¹ R.L. Wettenhall, “History and Public Administration”, *Papers and Proceedings of the Tasmanian Historical Research Association*, 16, no. 3 (December 1968): 95

materials are outside usual public policy sources and more located in history and storytelling.³² In itself, this enables a richer, layered meaning to what local government means in Tasmania.

CHAPTER 4 CONCLUSION

This chapter on methodology was the final chapter in *Part I: Approaching the problem*. It argued for using an interpretive approach with a discussion on strengths and weaknesses. It considered research design based around practice, talk and considered and posed a number of propositions to be considered in the development of tradition and the challenges posed by dilemmas to local government practice in both Britain and Van Diemen's Land/Tasmania. It concluded with a final qualifying remark on the limited scope of the thesis.

³² See for example, Alison Alexander, *Glenorchy 1804-1964*, (Glenorchy: Glenorchy City Council, 1986); Shane Breen, "Land and Power in the District of Deloraine 1825-75", *Tasmanian Historical Research Association Papers and Proceedings*, 37, no. 1 (March 1990): 23-33; Campbell Town Municipality, *Campbell Town, Tasmania: History and Centenary of Municipal Government*, (Campbell Town: Campbell Town Municipal Council, 1966); Stefan Petrow, "A Painful Birth: Municipal Government in Hobart Town 1845-57", *Tasmanian Historical Research Association Papers and Proceedings*, 49, no. 3 (September 2002): 203-224; Henry Reynolds, "Regionalism in Nineteenth Century Tasmania", *Tasmanian Historical Research Association Papers and Proceedings*, 17, no. 1 (July 1969): 14-28; Wettenhall, "Towards a Reinterpretation of Tasmania's Local Government History": 102-118

PART I: APPROACHING THE PROBLEM

PART I CONCLUSION

Chapter 2: Tasmanian Local Government Reforms raised a number of issues about Tasmanian local government reform that are not able to be answered by quantitative policy approaches. Understanding what local government is and means are two different things. How various reforms are approached and achieved depends on the understanding of these two different things. Chapter 2 tells a story of local government as failure, as constantly needing to be reformed, as playing a constant game of catch-up to State and Federal demands. It therefore is no surprise there is a level of resistance to change when it is the only constant, but is that the only reason why?

Chapter 3: Interpreting Local Government proposed another way of understanding why local government reform has been, and may continue to be, so difficult in Tasmania. By taking an interpretive approach it proposes exploring three traditions derived from English local government practice. The connection is made because the island of Tasmania was settled in 1803 by the English and governed with similar institutions. Three traditions are proposed (localism, voluntarism and representation) as a means of understanding how such ideas and beliefs are developed over time and present in local government practice.

Chapter 4: Methodology – How to find out what local government means outlined the research proposal and design aimed at gathering evidence for these three traditions in both England and Tasmania's local government. The evidence will be used in considering the proposition that the strength and persistence of such traditions may be part of the problem of resistance to local government reform, depending on what period of English reform they have been sourced from.

The thesis now commences to develop each tradition and consider their presence in England and Tasmania over time.

PART II: A TRADITION OF LOCALISM

PART II INTRODUCTION

Part II develops and explores a tradition of localism in English and Tasmanian local government. It compares and contrasts how ideas and beliefs in sense of place, permissive authority and local autonomy have presented. In the case of Tasmania, the argument is put that those settling the island are more likely to reflect the ideas and beliefs of their contemporaries in England from the period prior to the second reform.

Chapter 5 considers these ideas and beliefs in the English context and touches on the dilemmas of the second period of reform. It will argue the case for transfer of ideas and beliefs prior to the second period of reform to the colony of Van Diemen's Land.

Chapter 6 deals with how a tradition of localism manifested in Van Diemen's Land, now Tasmania, and considers how the circumstances of the colony's development impacted on the strength of such a tradition.

Part II ends with a summing conclusion of both chapters.

PART II: A TRADITION OF LOCALISM

CHAPTER 5: DERIVING AN ENGLISH TRADITION OF LOCALISM

CHAPTER 5 INTRODUCTION

This chapter develops the arguments for a tradition of localism in local government and in particular in Britain. To recap, the tradition of localism contains within it beliefs and practices associated with a sense of place, as a centre for community and identity, the provision of local service, devolution of financial responsibility and local autonomy. Localism is expressed in cultures with relatively small bounded places, where people engage in daily in-person relationships built up on a mastery of “taken-for-granted, habitual and repetitive” ideas and practices. The idea of a community is built up by people in a locality who may not have similar interests but who negotiate through various means to resolve their differences in everyone’s interest for the sake of social harmony.¹ The landscape becomes part of the localist tradition, as a sense of place that intertwines with identity and history and therefore with ideas associated around land as property. These are the characteristics sought for to provide evidence of an English localist tradition. Is there evidence to demonstrate how various local government practices became ingrained with ideas and beliefs around a sense of place, of identity directly connected to a locality? Is there a pattern of creating various local government institutions that match a locality’s needs? How has a sense of the right of control over a locality’s destiny developed over time? Further, what responses to central government demands for reform demonstrate the strength of a localist tradition? This chapter deals with such questions over three sections and then considers the dilemmas posed by reform.

¹ Neil Postman, *Building a Bridge to the Eighteenth Century: How the past can improve on our future*, (Melbourne: Scribe Publications, 1999), 53

Section 1: Localism as a sense of place, community and identity

Introduction

The theme of this section relates to the idea of localism as a sense of place, of creating community and linkages with identity. It develops a localist tradition by focusing on these ideas within a local government perspective. Within this tradition of localism it considers whether land was valued for its linkages to political power and wealth, or for its own intrinsic values. Land in England was bounded by a number of institutional lines (county, borough, parish) all of which formed a person's identity when movement across the landscape was limited. The ideas of community of interest and parochialism as identity are touched on as reflecting a person's relationship to a locality.

Looking at the landscape

The English landscape has contributed to a sense of place in that its varied landforms have shaped agricultural development, population disposition, internal languages and customs. People were and are linked to the land by successful interactions with it and by long association, whether influenced by tenurial, religious, social, economic or political ideas and events – each area has its own identity, and where populations largely remain within an area, the localist ideas and beliefs are reinforced.

Fragmentation becomes a norm until disruption (technology, political ideas and economic change) occurs.

The association of land with political power and wealth can be observed with the pattern of large landholdings of single gentry and nobility families controlling yeoman and tenant farmers.² Over a period of centuries, the identity of landowners is framed as a governing class. To “buy in” to landed society was to also take on propping up the “weaker brethren” as wealth was equated with obligations, and rank with duties.³ Life for lesser classes is ruled by the landowning classes with the inherent wealth and power found in land, even down to the lowest level of landowner

² See Thompson, *English Landed Society in the Nineteenth Century*, Tables of estates, pp. 113-117 as an illustration of the importance of acquiring land to improve social status.

³ See E.L. Jones, “Industrial Capital and Landed Investment: the Arkwrights in Herefordshire, 1908-43”, in *Land, Labour and Population in the Industrial Revolution*, ed. E.L. Jones and G.E. Mingay, 52 (London: Edward Arnold [Publishers] Ltd)

who laid claim to being a gentleman and was supported in this by his “neighbours and betters”.⁴ The beliefs of landowners shaped the landscape, whether it was farmed as arable or pastoral land, or used to landscape large estates as a show of wealth and political power, or used for activities such as enclosure, drainage, fertilizing, the introduction of new crops, the sinking of coal mines and urban development, the limiting of importing of cattle or foreign trade in corn or the supporting of canal or turnpike legislation that enable easier access to markets.⁵ In later periods of commercial prosperity, large country estates were the aspiration of the *nouveaux riches* of banking, trade and professions.⁶ With the rise of manufacturing in England from the seventeenth century, land and a country seat enabled those engaged in trades and merchant activities to acquire identity as gentlemen. In touring England, Defoe was able to observe:

...how the present increase of wealth in the City of London spreads itself into the country, and plants families and fortunes, who in another age will equal the families of the ancient gentry, who perhaps were bought out”.⁷

Once accepted by one’s landowning neighbours as belonging, the role of the gentleman was to keep the tenants in order and therefore begin to wield some measure of political power. Personal connections in the neighbourhood amongst one’s peers ensured local landowners had the capacity to meet any threats to local autonomy, to further any political ambitions, such as their sons’ entry to Parliament or aspiring to roles such as Deputy Lieutenant or High Sheriff or to more firmly tie one’s family into the fabric of established society by successful marriages.⁸

The estate...is purchased by a citizen, who having got the money by honest industry, and pursuing a prosperous trade, has left his books and his warehouse to his two younger sons, is retired from the world, lives upon his estate, is a justice of the peace, and makes a complete gentleman. His eldest son, bred at university, and thoroughly accomplished, is as well received among the gentry

⁴ Christine Carpenter, *Locality and Polity: a study of Warwickshire landed society, 1401-1499*, (Cambridge: Cambridge University Press, 1992), 616

⁵ Lawrence Stone and Jeanne C. Fawtier Stone, *An Open Elite? England 1540-1880*, (Oxford: Oxford University Press, 1986), 15-16

⁶ Stone and Fawtier Stone, *An Open Elite?*, 258

⁷ Daniel Defoe, *Tour Through England and Wales*, (London: Everyman ed., 1928), 15, quoted in Stone and Fawtier Stone, *An Open Elite?*, 18

⁸ Carpenter, *Locality and Polity*, 616; Stone and Fawtier Stone, *An Open Elite?*, 13; Thompson, *English Landed Society in the Nineteenth Century*, 129

in the county and upon the valuable fund of his true merit, as if he had been a gentleman by blood for a hundred generations before the Conquest.⁹

Further, acquiring land enabled, with sufficient wealth, to lay out buildings and gardens, to design a “prospect” identifying the owner and their successive families with the locality. The English landscape was the subject of competing ideas of Tory benevolence, of composing the landscape as society was to be composed, “reluctant to relinquish it to individual greed and taste or to a natural tendency towards improvement”, and so take great estates and break these down for commercial profit.¹⁰ It is expected a landowner will become attached to a particular place and values its customs, institutions and landmarks. To be a gentleman was to be a man of leisure in a romantic and pastoral landscape that reflected shared ideas in literature, art and civil society. To this end, the pattern of acquiring land is to improve it but not necessarily for only private good. Lesser classes were assumed to share in this traditional view of how the landscape and locality was to be interacted with, in day to day work, because it was the benevolence of their betters that made life agreeable. Land ownership was a virtuous activity of benevolent fulfilment to be undertaken with a paternalist approach to the welfare of the labourers and tenantry, in the provision of charities, schools and churches in the locality, again reinforcing linkages of locality intertwined with identity.¹¹

As rural populations and townships, people are linked by a common sense of the past, of a shared history and set of customs particular to their area. If the idea of “sense of place” derives from the shared interactions, thoughts and experiences of a person with their local natural landscape, “sense of place” also becomes entwined with how such experiences are shared with those who manage the population’s locality.

...the township serves as a centre for the desire of public esteem, the want of exciting interests, and the taste for authority and popularity, in the midst of the ordinary relations of life; and the passions which commonly embroil society, change their character when they find a vent so near the domestic hearth and the family circle.¹²

⁹ Daniel Defoe, *Tour Through England and Wales*, (London: Everyman ed., 1928), 62 quoted in Stone and Fawtier Stone, *An Open Elite?*, 19. See also Jones, “Industrial Capital and Landed Investment”, 59-60

¹⁰ Nigel Everett, *The Tory View of Landscape*, (London: Yale University Press, 1994), pp. 7-8, 12

¹¹ Everett, *The Tory View of Landscape*, 12; Thompson, *English Landed Society in the Nineteenth Century*, 16-18, 80-81, 187

¹² De Tocqueville, *Democracy in America*, 64-65

Economic, kinship and social ties created networks of interest between communities and within them, leading to a belief in the primacy of local culture and beliefs.

Labor markets were highly localised and contained within regions with particular farm trade and artisan craft groupings “tramping” fixed circuits following labour demands¹³. So ingrained was the belief of agricultural work as the most meaningful of employment for British people that it caused the observation the “plough not the pencil must be the crest of infant empires”¹⁴ to be delivered in an instructive 1848 lecture for colonists – in other words, land as agriculture can be found a measure of English success, not trade.

Geographically Britain (or United Kingdom, as it is today) presented challenges for easy communication and travel. It is difficult to imagine in the 21st century a time when horses were the fastest form of travel and still needed relatively accessible travel routes. Add to the difficulties a once heavily forested and mountainous island surrounded by unpredictable seas and subject to harsh winters and a wet climate that made travel difficult if not impossible at times. The ability then for any central government to respond in a timely manner to a community’s concerns was restricted; let alone any real ability to manage local issues at a distance. Until the last century or so, the capacity to travel between localities was limited by the state of roads or access to transport, let alone the ability to pay, as well as by vagrancy laws that worked to influence most people to stay within particular geographic confines.

Until the advent of the railway and improved road systems which enabled the easy movement of populations from farm to town to urban areas, living in rural England was an experience where the economy centred on agricultural and related production. Two centuries of agrarian reform lasting well into the nineteenth century occupied upwards of sixty percent of the workforce. Even with shifts of population to industry, agriculture remained the largest single employment sector until 1851 in Britain.¹⁵ Until the movement to cities for employment, the idea of work for most of England’s population (and especially for transported or voluntary Van Diemen’s Land populations) was immersed in countryside as “place”. How ideas and practices of politics were expressed related to whether you owned land or worked on it. Land

¹³ Richard Price, *British Society 1680-1880: dynamism, containment and change*, (Cambridge: Cambridge University Press, 1999), 49

¹⁴ John West, *The Fine Arts: A Lecture*, (Launceston, 1848), 40 quoted in *The History of Tasmania*, ed. A.G.L. Shaw, xix (Melbourne: Angus & Robertson Publishers, 1981)

¹⁵ Price, *British Society 1680-1880*, 24

ownership was bound up with preservation and enhancement of social status – wealth and political power was bound up in land. For example, wage negotiation was by bargaining between tenants and landlords with a strong culture of deference to the landed elite and trust in their judgment on matters affecting livelihood.¹⁶ The shift of liquid merchant capital into township real estate meant the idea of town life became wrapped up with ideas of place and personal identity. The practice of delimiting local government by geography (boundary and area) using the inside and outside of town boundaries became the norm. *Vills* as the smallest unit of local government outside of towns was the area of a large country house with an attached estate, and often matched parishes in size.¹⁷

Community and identity, a sense of a person's place in the landscape and their identity within a community was directly connected to a locality and its history:

I was born to a small Hereditary Estate, which according to the tradition of the village where it lies, was bounded by the same Hedges and Ditches in *William the Conqueror's* Time that it is at present, and has been delivered down from Father to Son whole and entire, without the Loss or Acquisition of a single Field or Meadow, during the Space of six hundred Years.¹⁸

Other than London and a few other major urban centres, most towns were really villages that existed to serve the local agricultural economy. Culture and practice was rooted in the agricultural and commercial practices of a non-urban Britain where “the habits of industry and regularity” were to be found in working the land to generate prosperity – “country was king”.¹⁹ Wordsworth noted the yeomen of the Lakes District, “...humble sons of the hills had a consciousness that the lands which they walked over and tilled had for more than five hundred years been possessed by men of their name and blood.”²⁰

Maps of locality boundaries were inadequate (disputed or unknown) for assigning local responsibility for tasks such as road and bridge repairs. As parishes began to annually “beat their bounds”, their boundaries became known. Parish identity was maintained by geographical limits with a procession making its way into the annual

¹⁶ Thompson, *English Landed Society*, Chapter VII.

¹⁷ Cumbræ –Stewart, “The English Background”, 31-32

¹⁸ Joseph Addison, *The Spectator Papers*, 1, (1 March, 1711)

¹⁹ James F.H. Moore, *The Convicts of Van Diemen's Land (1840-1853)*, (Hobart: Cat & Fiddle Press, 1976), 28; Tim Blanning, *The Pursuit of Glory: Europe 1648-1815*, (London: Penguin Books, 2008), 142

²⁰ William Wordsworth, quoted in Anthony Wood, *Nineteenth Century Britain; 1815-1914*, (London: Longmans, 1960), 7

festivals of village life (Rogation Sunday). This practice was amplified in importance with the role of the vestry increasing to become a widespread and common unit of local poor law administration by 1689:

The settling parochial rights or the bounds of parishes depends upon an ancient and immemorial custom. For they were not limited by any Act of Parliament, not set forth by special commissioners, but as the circumstances of times and places and persons did happen to make the greater or lesser...As these duties and profits are limited by undefined geographical bounds, it is necessary that these bounds should be carefully preserved, as they generally are, by annual perambulations.²¹

Not to be discounted in this tradition is the pattern of locality based activities and festivals that added to the sense of community and identity. Much as some might discount the value of such activities as English eccentricity and having nothing to do with the realms of public policy, in the context of arguing for the strength and persistence of a tradition of localism, local festivals often incorporated local government institutions with aspects of religious control, interweaving identity with specific place and parish boundary, with shared and dominant thoughts and ideas. Folk rituals were deeply embedded in country life as a matter of survival and remembrance where literacy was often even less than basic and restricted to religious or gentry classes. Various festivals were recorded as still occurring into the late 20th century. As an example, the collection of tithes by the Hock-tide Tutti-men of Hungerford in Berkshire follows the "Hock-tide Jury" summoned to the Town Hall and sanctioned by the local Constable. The "Dunmow Flitch" trial requires the presence of "Judge and Counsel, duly robed and with much traditional ritual and mock legal procedure", having been recorded by Chaucer a hundred years before written records of 1445. The event even persisted through World War II when bacon shortages resulted in flitches being sent from the Commonwealth so the Trial could continue. "Tynwald" on the Isle of Man and the "Visite Royale" in Jersey are remnants of medieval government where ceremonies are still played out with various roles such as Freemen, Jurats and the Connétable with twelve men resident in the parish. The Mayor officiates at the Oyster Feast in Colchester in Essex by making the first season's dredge and re-declaring each year the grant of oyster fishing in the

²¹ Archbishop Edward Stillingfleet, *Ecclesiastical Cases relative to Duties and Rights of Parochial Clergy, etc.* (1698), Part I, p. 348 quoted in Sidney and Beatrice Webb, *English Local Government: The Parish and the County*, Vol. 1 (London: Frank Cass and Co. Ltd., 1963), 9-10

River Colne “from time beyond which memory runneth not to the contrary”.

Charters of Corporation gave the right to hold markets or fairs and this co-incided with ancient festivals, such as the “Beast Mart” at Boston in Lincolnshire.²² Various ancient doles or charitable distributions existing today are associated with the religious Lenten festival and restricted to various parishes (such as the Tichborne dole being restricted to Tichborne and Cheriton, Hampshire, the Marvyn Charity in Upton Nervet, Berkshire), as well as times for tithing (Midsummer Tithes in Shropshire). Martinmas ceremonies still mix pagan and Christian beliefs with Court Leets and Jury Days, some of which are still held, although more as comic events today than the serious fining and tithing events of the past.²³

Is “community of interest” just plain “parochialism”?

Localism as identity and place also contains ideas of “community of interest” and “parochialism”. The former is a positive attempt at arguing for action recognising the value of a community’s shared interests and behaviours in a locality, the latter a negative expression of acting as if nothing matters more than the narrow concerns of a locality. The beliefs and values developed through shared responsibility for a local community have been built up over time and passed on between people and through the development of institutions. The village or township is the “only association which is so perfectly natural, that wherever a number of men are collected, it seems to constitute itself.”²⁴ In other words, in forming local government, it is such an intrinsic human activity that it must imply some shared beliefs and values for it to occur. The religious development, shaping and management of community life, and its consequent use as an administrative unit for national purposes, reinforced the importance of locality, personal identity and shared beliefs. As literally footnotes in history, Webb and Webb’s exhaustive study of parish and vestry minutes reveal the very local concerns of daily parish management of communities and the role of the parish and its people within them.²⁵ It was as parish responsibilities were gradually stripped through the development of the more oligarchic trusts and commissions and the administrative and legal actions of Justices of the Peace, the linkage between locality and parish became to be viewed in less positive light, especially where

²² The Marchioness of Anglesey, *The Countrywoman’s Year*, (London: Michael Joseph Ltd, 1960), 79, 156-158, 257, 335

²³ Maggie Black, *WI Calendar of Feasts*, (London: WI Books Ltd, 1985), 24-25, 52-53, 93

²⁴ De Tocqueville, *Democracy in America*, 64-65

²⁵ Webb and Webb, *English Local Government*, Vol. 1, 44-49.

parishes entered into legal battles to retain various responsibilities.²⁶ With the charge that every landed man was inclined to set up a “little Tyranny” with a pliant magistrate and “oppressive Laws”, parochialist behaviours and practices then become a useful political tool for promoting centralist policies of reform.²⁷ If a sense of identity is based on an administrative boundary, once that boundary disappears there are ample other means of identification with the landscape in Britain such as townships and regions to fulfil a sense of place and community.

Conclusion

In developing a tradition of localism, the ideas of creating community, sense of place and linkages with identity are reflected in the use of land for political power and administrative boundaries. They are persistent ideas that survive over time even as economy and society change and local government boundaries are shifted. The relationship with land ties into relationships with communities and their customs and beliefs persistently find their way into the artificial boundaries of local government administration. The next two sections consider permissive authority and local autonomy, both of which are interlinked with the ideas outlined in this section.

²⁶ Price, *British Society 1680-1880*, 162 See also Webb and Webb, *English Local Government*, Vol. 1, 146-172

²⁷ Everett, *The Tory View of Landscape*, 12

Section 2: Localism as a permissive authority

Introduction

This section could be as long as the eleven volumes of Webb and Webb on English local government in listing out the numerous permissive authorities and their practices that existed at the local government level until the second period of reform. Rather it is a short discussion of the *idea* of permissive authority in local government practice and its persistence, and how that idea is tied up with the needs of a community and its distance from central authority.

Finding local solutions

Local government is marked by a characteristic permissiveness in developing institutions to suit local needs with the acquiescence of weak central government. The decline of old earldoms gave rise in the tenth century to administrative and legal units of counties, shires, hundreds, boroughs and franchises, as well as other now defunct units such as wapentakes and vills. Administrative roles developed at different rates to fulfil a range of tasks as Webb and Webb discovered by exhaustive study of surviving Minutes and local histories.²⁸ Very localised roles evolved for managing townships and country areas. Post 1689 the idea of local government as being free of arbitrary central interference was added.²⁹

As time progressed, the rise and fall of feudalism with local management undertaken by the various Courts of manors was replaced with the local structures of parishes. Parishes were population based, encompassing one or more manors, one or more towns, depending on population size and geographical relationship, and at the same time, each manor township preserving ancient identities. Those places that did not fall into parish boundaries were considered extra-parochial yet they still maintained forms of local government institutions to suit their local needs as they were often granted this as a privilege, either by the ruling monarch or occasionally by Parliament or had grown up by prescription being lands occupied by monasteries, colleges, inns of court, cathedrals, bishops palaces, forests, royal castles or

²⁸ See for example Sidney and Beatrice Webb, *English Local Government: The Manor and the Borough*, Vol. 2, (London: Frank Cass and Co. Ltd., 1963), 31 on the variation in role of the types of Courts that serviced local government leading up to the second reform period.

²⁹ Webb and Webb, *English Local Government*, Vol. 4, 351

residences, shire halls and even small manors, parks or ancient houses. There is the delightful example of the Ash Meadow where by an archaic meeting process “Fieldsmen” or “Crocusmen” were appointed to annually divide up common land by lot.³⁰ Overall, most of Britain was divided into parishes, with extra-parochiality an exception.

By the late 1600s it was calculated 9000 parishes existed to manage not only church business, but also that of their locality. Given levels of technology and how wealth was distributed as land leftover from feudal times, it is reasonable to assume parishes evolved as the distances between how far people were able to travel in their day to day farming and township activities, with the church as the centre of parish life. This is not to say parishes had, as some claimed, “immemorial antiquity” as “the temporal law of the thirteenth century knows nothing of the parish”.³¹ When the boundaries of any parish came to the attention of either Courts or Parliament as a local government unit, the boundaries were “tacitly accepted”, with the sixteenth century Parliaments habitually assuming bounded areas as parishes as a common unit for local administration.³²

While there were some attempts in the Tudor period to institute uniform charters for town and boroughs, the practices of corporations were not uniform across England. There was no uniform constitutional municipal corporation, other than a body founded on the right of “freemen” to administer the town and the numbers of these varied as well.³³ Municipal corporations suited their constitutional administration to what the locality needed and some were complicated further by feudal or modern structures. In all, administration evolved to suit the locality.³⁴ As the parish and corporation had replaced the plethora of manorial courts in form, their institution did not prevent the persistence of the same plethora of roles and responsibilities of a location.

After the Tudor period central governments were largely content to let local government institutions get on with the business of managing their locations.

³⁰ Webb and Webb, *English Local Government*, Vol. 1, 10

³¹ *Ibid.*, 13

³² *Ibid.*, 9-10

³³ E. Halevy, “Before 1835” in *A Century of Municipal Progress 1835-1935*, Harold J. Laski, W. Ivor Jennings and William A. Robson, ed., 19 (London: George Allen & Unwin Ltd, 1935)

³⁴ For an example of the localist evolution of municipal custom and administration of particular English cities and boroughs, see Thompson, *An Essay on English Municipal History*

Appeals for assistance were only made to central government if some public service or improvement was needed. In 1894 local government was still seen as independent yet it had to act within its bona fide powers.³⁵ Prior to the Reform Acts of the mid to late 1800s, the practice was for a petition to be made to Parliament for a Bill to set up the needed improvement in a locality. In the period between the first and second reforms, Parliament largely acquiesced to local requests via Bills. As one consequence, the system of highways and turnpikes were subject to laws that were considered incredibly complex and overly detailed. They even specified the times of year for trees to be pruned and who was responsible for this task and how cattle were to be harnessed into shafts for reasons of not wanting them to wander all over the road. It was argued the administration of various locally-based laws affecting roads had “fallen into the hands of the lowest order of society” with the corrupting influences of local politics affecting hiring or supervision of workers.³⁶ The expensive and complicated practice of petitioning and passing a Bill for the particular wants of each locality existed until the model clauses Bills of 1845 were finally passed. By the 1870s, it became possible to expend public monies at the local level without needing the actual leave of Parliament.³⁷

Changes in economic practices in managing land created problems for the labouring classes. Reinforcing the sense of importance of locality, of finding local solutions to local problems in the absence of any central policy other than outdated legislation, in dealing with local problems of poverty local solutions were entrenched through paternal policies of the Justices system. The introduction of stock and land leases with tenantry farming increased poverty for labourers. Landholders pursued enclosure of commons, increasing capacity for herd sizes, particularly sheep for wool production, and notably, requiring less labour than agricultural crops (wheat and other cereals). Over time Justices of the Peace preferred to interpret Parliament’s wishes within the context of their own locality and that of local landowners in responding to local problems, especially at times of increasing poverty and crime as labourers sought work in “touring the country”. The Justices’ creation of

³⁵ Edward Jenks, *An Outline of English Local Government*, 5th ed., revised (London: Methuen & Co. Ltd, 1921), 15

³⁶ Price, *British Society 1680-1880*, 129-130. Note the comments by John McAdam, a road administration reformer.

³⁷ J.L. Hammond, “The Social Background 1835-1935” in *A Century of Municipal Progress 1835-1935*, ed. Harold J. Laski, W. Ivor Jennings and William A. Robson, 45 (London: George Allen & Unwin Ltd, 1935)

workhouses managed by their appointed Guardians of the Poor were localised solutions to a problem that was starting to transcend local boundaries.

By the end of the nineteenth century, localised management of town and country had reached its peak with franchise and public office restricted to substantial property holders. In the absence of any central government interest in local matters, a diverse and largely independent administration had evolved to suit the needs of localities. Local government had developed “crazy pavement-like” into manorial, parochial, township and borough institutions replete with town councils and vestries, churchwardens, boards of guardians, incorporated towns with improvement commissioners, highway surveyors, commissioners of sewers, lighting inspectors, turnpike trustees, highway boards, nuisance commissioners, local boards of health, river conservancy boards, port sanitary authorities, burial boards, school boards and an overall legal and administrative system of Justices of the Peace with their Quarter Sessions and Court of Petty Sessions.³⁸ More accurately, England and Wales between them had 62 county councils, 302 municipal boroughs, 31 improvement act districts, 699 local government act districts, 574 rural sanitary districts, 58 port sanitary districts, 2,302 school board districts, 362 highway districts, 6,477 highway parishes 1,052 burial board districts, 648 poor law unions, 13,755 ecclesiastical and nearly 15,000 civil parishes, with different boundaries, electorates, rating powers, voting procedures and qualifications for office. The President of the Local Government Board reported to the House of Commons that he “suspected he had mislaid some in the count”.³⁹

Parishes were formed where populations desired it and were able to amalgamate if they so chose to under the later 1834 *Poor Law Amendment Act*. The same permissive attitude applied in the early years of the second reform period where local authorities resisted any proposals for central departments and even special purpose Commissions (paving, lighting, sewer, etc) were granted the right to be absorbed by town councils “if they pleased”.⁴⁰

³⁸ D. Fraser, *Urban Politics in Victorian England*, (London: Macmillan, 1979), Part One; Price, *British Society 1680-1880*, 162

³⁹ Fowler, *Hansard*, House of Commons, 21 March 1893, col. 68i quoted in Patricia Hollis, *Ladies Elect: Women in English Local Government 1865-1914*, (Oxford: Clarendon Press, 1987), 3

⁴⁰ Hammond, “The Social Background 1835-1935”, 41

Legislation relating to local government lacked a compulsory character and so reinforced the belief of right of control over local circumstances and the way in which it was to be achieved.⁴¹ Until legislation dictated otherwise, the idea of permissive authority as a means of serving the localised needs of a community persisted.

Conclusion

As a short discussion of the idea of permissive authority in local government practice, this section has covered how the needs of a community and its distance from central authority are likely to result in highly localised solutions. The problem then occurs of whose interests are being represented in the many small authorities, an issue that will be dealt with in later chapters. This idea persisted until the second period of reform when many smaller local government bodies were subsumed into large entities. The absence of any compulsion in central government policies and legislation was a contributing factor to the persistence of this idea.

⁴¹ Jenks, *An Outline of English Local Government*, 75

Section 3: Localism as local autonomy

...a country of strong local government may be slow to move, and blundering in its methods, but it will be a country of steady progress, and of political stability and honesty.⁴²

Local government is not secondary but primary; it is axiomatic.⁴³

Introduction

Although it seems odd to have to justify the idea of local autonomy within a context of local government, it reflects whether local institutions actually have heads of power to act as autonomous units. Within a tradition of localism the idea of local autonomy is once again related to either the absence or weakness of central government, and within the context that prior to 1832, local government was effectively lack in constitutionality. This section considers the development of local autonomy as a uniting thread though local government practice.

A long history of local autonomy

In the long history of the islands that make up the United Kingdom today, the need for local government was created at times of weak central government. Continuity in social and economic practices enabled populations to maintain a degree of control over their localities and for this a degree of local autonomy in local government practices was essential. Repeated invasion and the events of civil wars meant that central government as either monarchy or Parliament was not always able to sustain or provide strong policy and practice.

Local government in the UK is at least 500 years older than central administration, existing well before the time of King Alfred.⁴⁴ The idea of local autonomy extended to deciding the provision of services, limited rights of appeal in early times and defence of an area.⁴⁵ The idea of community as the centre and organisation by group, rather than by individual was expressed during the Roman occupation of Britain in the reign of Caracalla (211-217AD). All townspeople not only had the

⁴² Jenks, *An Outline of English Local Government*, 9

⁴³ Mackenzie, *Theories of Local Government*, 7

⁴⁴ Jenks, *An Outline of English Local Government*, 9

⁴⁵ Helen M. Jewell, *English Local Administration in the Middle Ages* (Newton: David & Charles [Publishers] Limited, 1972), 44-45

rights of Roman citizens, they also had their own government, constitution and obligations to their own town such as a requirement to only defend their hometown, not fight elsewhere.⁴⁶

We can see the persistence of this idea during various civil conflicts in the development of local defence forces and eventually devolving to local peace-keeping. By the sixteenth century tenant leases included an obligation to “turn out” for the local lord, reflecting a significant local delegation of official power in keeping the peace (yet also a decline in an automatic assumption that tenants would “turn out” on demand).⁴⁷ In 1648 landowners were able to raise local auxiliary regiments with slogans that “promised a fight against any person or centralising institution which sought to deprive local people of their rights to property. They would fight any tyranny and continue to fight to any length”.⁴⁸

The practice of self-help needed to be underwritten by a strong sense of mutuality and co-operation amongst landowners in the absence of a national standing army and police force, and reflected in the development the system of manorial courts, Justices, elected and appointed local government officials and eventually a range of various local government institutions to suit local needs. As one example, with the absence of a standing police force, the *comitatus posse* was able to be raised by the local Justice in times of need.

Saxon towns replaced the Roman administration with the practice of the town moot to decide local issues.⁴⁹ In this sense England has “maintained for centuries a constitutional policy”, ascribing English liberties:

...above all things to her free local institutions. Since the days of their Saxon ancestors, her sons have learned at their own gates the duties and responsibilities of citizens.⁵⁰

Saxon townships were linked with the dwelling places of Christian priests (*paroikia*) as parishes, forming vestries where ecclesiastical matters were managed between the local priest and his followers away from the rule of the feudal manor lord. For the

⁴⁶ Thompson, *An Essay on English Municipal History*, 5

⁴⁷ Carpenter, *Locality and Polity*, 284

⁴⁸ Sarah Barber, “‘A bastard kind of militia’, localism and tactics in the second civil war” in *Soldiers, Writers and Statesmen of the English Revolution*, Ian Gentles, John Morrill and Blair Worden, ed., 148, (Cambridge: Cambridge University Press, 1998)

⁴⁹ Jenks, *An Outline of English Local Government*, 19

⁵⁰ T. Erskine May, quoted in *English Political Institutions. An Introductory Study*, J.A.R. Marriott, 2nd ed., (Oxford: Clarendon Press, 1913), 245

clergy and nobility, wealth was represented by real estate (landed capital) resulting in the clearing of English forests for comparatively large-scale farming. Feudal serfs, later tenants, were afforded protection in return for the right of clergy and nobles to rule their affairs.

It follows then that the surplus and need for trade assisted in the development of towns and cities and the further evolution of local government. As there were problems of distance from the seat of government, various types of courts to suit a locality's needs were used for managing the behaviour of local populations, officials and special areas of land under separate laws (such as forests), as well as the defence of borders and coasts. While control of local government had shifted between Saxon township meetings, the feudal manor and parish vestry, local autonomy remained as the uniting thread between the institutions.

The practice of limiting local government by geography (boundary and area) and therefore reinforcing local autonomy has been persistent over time. There was little deviation from ancient feudal boundaries even with nineteenth century division into around ten thousand parishes acting as both ecclesiastical and administrative units. Once populations of towns grew, within these boundaries the rights of jurisdiction over the domain – local autonomy via charter that applied to that locality only – was sought from either the monarch or lord of the manor, creating a communal character with powers of jurisdiction and sense of what would now be recognised as civic pride.

Change was to be defended. If civil and municipal rights were withheld and new institutions emplaced, the people sought a return to local control rather than accept any changes that would have surrendered control to central authority. As one example, in the Borough of St Albans, when the Norman invaders replaced the Saxon Abbot with one of their own, the townspeople:

...supplicated the Abbot and convent that they would yield up to them their privileges and the charter confirmatory of them, as they had ever used and enjoyed them from the time of the making of the charter referred to until the last abbot had hindered them in so doing, as the charter itself would testify, and as was set forth in Domesday Book, wherein their town was styled a 'borough' and they 'burgesses'.

They further petitioned for the return of the set of rights including attending the king's parliament, the return of court and jury powers and the setting of prices as

well as the return of lands and goods (presumably seized during invasion) such that they would be an independent township. Despite these rights for the Borough of St Albans being overturned three years later (1331), the inhabitants considered their rights to local control important enough to petition for another 222 years to have them restored. This was finally realised by charter in 1553.⁵¹

The geography and resources of the islands of Britain have played a significant role in developing social and economic behaviours, which in turn influenced the development of local government institutions. Local bodies such as parishes linked with common agricultural interests to create customary laws managing everyday life and the division of resources, some still existing at the time Webb and Webb undertook their exhaustive study.⁵² In the absence of significant landowner courts, local autonomy manifested in hamlets and villages by maintenance of their own administrative committees whose decisions were universally accepted as binding on the local townspeople. As one law case in 1657 outlined, from time immemorial the “Sixteens”, a local administrative committee, had been accustomed “to make orders, set penalties, choose officers, and lot the meadows, and do all such things as are usually performed or done in the Courts Baron of other Manors”.⁵³

The commercial development of ports and towns to channel goods to European towns, especially wool to the cities of Flanders, assisted the rise of the merchant class. For this class, capital had to be liquid, especially when it was lent to kings and lords for wider enterprises and needed for trading ventures. The resultant creation of political power via liquid capital saw the gradual entry of merchants into public life and office through two gradual developments.

The first was that with the shifting of liquid capital to land purchase, by the twelfth century there is the creation of *free* towns, where the right to tax and exercise law in return for protection shifts from feudal nobility and clergy to the town authority.⁵⁴

The development of trading routes and natural resources created a rise in market towns and cities and the need for local government practices to facilitate such trade:

⁵¹ Thompson, *An Essay on English Municipal History*, 23-24

⁵² See for example the parish control over the division of commons in Webb and Webb, *English Local Government*, Vol. 2, 128-134 and particularly footnote 1:134

⁵³ Webb and Webb, *English Local Government*, Vol. 2, 132-133.

⁵⁴ Henri Pirenne, trans. Frank D. Halsey, *Medieval Cities: Their origins and the revival of trade*, (Princeton: Princeton University Press, 1948), 217

“What signifies all your balls, ridottos, etc., unless navigation and the coal trade flourish” or indeed if corporations were not able to “control their markets and their little harbours, and maintain some Municipal dignity”?⁵⁵

With trade routes in and out of Britain across continental Europe being used by the merchant class in medieval times, there is no reason to not consider that discussion of the financial and political benefits of controlling the management of townships would have formed part of the stock in trade discussion over drinks in the *gildhalle*, *gild* or *hanse* (guildhall). For merchants, combining together was a necessary guarantee for protection of trade routes and commercial monopolies. The Hansa of London for example controlled the North Sea trade, with merchant associations in Ghent, Lille and London.⁵⁶

Even with the protection afforded from the Magna Carta to have safe and secure travel in and out of England, they also needed home bases as markets from which to manage business. Hereditary land ownership was in part replaced by the development of municipal authorities possessing a degree of political autonomy and local government. Ownership of land through town occupation was not the same as ownership that carried the personal dependence of tenants. The shedding of feudal status broke the monopoly of freedom as belonging only to privileged classes. Town authority guaranteed the merchants needs for personal liberty (the ability to come and go), a penal code to ensure internal security (the creation of tribunals encompassing all the laws and regulations of a town/city), and people empowered to implement such codes (magistrates, jurats, etc).⁵⁷

Another important development was the conflation of town property ownership with town property management via public offices, such as magistrates, and the development of local government institutions. As mentioned above, creation and enforcement of law for the merchant class within towns ensured security for their wealth. Managing townships as distinct legal entities was first recorded in charters for towns in Flanders in 1111. The idea “*ut die in diem consuetudinaris leges suas corrigerent*” – the power of aldermanic courts in correcting from day-to-day municipal laws was conceded by the Count of Flanders to the City of St Omer in

⁵⁵ E. Hughes, *North Country Life in the Eighteenth Century*, i, 1952, p. 151 quoted in Stone and Fawtier Stone, *An Open Elite?*, 223 and Webb and Webb, *English Local Government*, Vol. 2, 179

⁵⁶ M.V. Clarke, *The Medieval City State: An Essay on Tyranny and Federation in the Later Middle Ages*, (Cambridge: Speculum Historiale, 1966), 24

⁵⁷ Pirenne, *Medieval Cities*, 169, 193

1127.⁵⁸ There is no reason to suppose this idea did not travel to Britain via the increasingly influential merchant class.

Pre-Norman, a “burh” from which “burgess” and “borough” is derived, is the idea of strong or fortified place, and the idea of town and village being intertwined with this idea of “burh”, as a place where people lived and trade was carried on. With land able to be converted to liquid capital and back, merchants could buy and sell town dwellings. Land within town ramparts became the property of a “special class of burghers (*burgenses*)”. With the town declared a borough and all the tenements within its bounds declared “burgesses”, the same title and rights granted to the men were eventually passed to their heirs and successors in perpetuity.

The town burghers paid a fixed annual sum (*firma burgi*) to gain protection and the ability to carry on trade free from the demands of serfdom. With fixed annual sums agreed in the town’s *charter*, the concept of *chartered boroughs* developed.⁵⁹

Charters were formalised by the time of Edward I with some attempt at uniformity – in all they confirmed the rights of local autonomy of towns away from local feudal landowners with the authority to issue by-laws.⁶⁰

The burghers were eventually granted the right to elect juries, to appear in their own courts (eg. the Leet Court), and to choose their own bailiff. Justice that worked for local aspirations rather than any rights of man developed into a framework of courts and common law across England. Outside the towns, justice was served with the development of civil and criminal courts, again with magistrates appointed from significant local and/or noble landholders.

The positions of *aldermen* (*ealdorman*/elder brother/senior members merchants’ guildhall,), *mayor* (or *major*, the lord’s bailiff or reeve or headman, or alternatively *major et jurati* – elected foreman of the Leet jury) and *burgesses* (all the privileged land/property owners in the borough) evolved into the gradual organisation of today’s elective bodies.⁶¹ The idea of land and property became bound up with notions of corporate capacity to manage an area’s local government. When certain

⁵⁸ Pirenne, *Medieval Cities*, 190, 192

⁵⁹ Jenks, *An Outline of English Local Government*, 173-181.

⁶⁰ See Martin Weinbaum, *The Incorporation of Boroughs*, (Manchester: Manchester University Press, 1937) on the history of incorporations, particularly p. 22 where the earliest date for wider ordinances was 1263.

⁶¹ Jenks, *An Outline of English Local Government*, 173-181

localities were then granted the right to send two burgesses to Parliament this practice enshrined a right of representation bound up with a property qualification.⁶²

The provisioning through local taxation for local services began to be set by municipal councils for the building of churches and hospitals, etc., as well the protection of town ramparts, further concentrating the development of government on the local sphere of interests. “*Unus subveniet alteri tamquam fratri*” – let us help the other like a brother – were the words of a twelfth century Flemish town charter, and the underlying ideas was also reflected in various British charters by use of the word “*communitas*” – “that the said burgesses shall have a community among themselves”.⁶³ That which was outside the city was to be exploited (food, manpower for defence or trade recruitment, other resources), whether they are travelling merchants, or the remaining feudal rural class, through various tolls and restrictions on entry to the town, in order to build and support the community within.

For town and country, it is important to note while there was a lack of uniformity across municipal structures, there was some commonality in the desire for local autonomy. The constitutions of corporations differed yet they shared the idea that it is a body founded on the right of “freemen” to administer the town.⁶⁴ Municipal corporations varied in their constitutional administration yet the 1590 Charter for Leicester embodied municipal rights that would be familiar in other towns and cities. The city’s inhabitants enjoyed civil and criminal rights with a regular Mayoral Court every Monday to deal with civil and criminal cases.⁶⁵

The use of charters enabled some uniformity and understanding at the central level. The Charter of Henry II granted the burgesses of Preston the same liberties and customs as Newcastle-under-Lyne and, apart from reserving the right of control to the King’s justice, exempted them from any other local jurisdiction, enabled the traders to travel freely abroad and granted similar rights to tax and penalties:

Wherefore, I will, and firmly command, that my aforesaid burgesses of Preston have and hold, well and in peace, freely and quietly, fully and entirely, and

⁶² Thompson, *An Essay on English Municipal History*, 26-27

⁶³ See for example, Weinbaum, *The Incorporation of Boroughs*, 50-51, footnote 2, and various borough charters in Thompson, *An Essay on English Municipal History*

⁶⁴ E. Halevy, “Before 1835” in *A Century of Municipal Progress 1835-1935*, Harold J. Laski, W. Ivor Jennings and William A. Robson, ed., 19 (London: George Allen & Unwin Ltd, 1935)

⁶⁵ Thompson, *An Essay on English Municipal*, 87

honourably, both within the borough and without the borough, all those liberties and free customs (saving my right of administering justice)...⁶⁶

The division into smaller or more local administrative areas appears as a common practice where problems of management caused by distance from seat of government further cemented ideas of local control. The behaviour of officials and managing special areas of land under separate laws (such as forests), as well as defence of borders and coasts, meant that administrative roles developed at different rates to fulfil a range of tasks. These included collecting revenue for the king's use (fines and taxation), raising an army when needed (military service), upholding the laws (exerting authority and providing protection) and providing information on demand to central administration (Domesday in 1086, Hundred Rolls in 1274/75, for example). The idea of local autonomy extended to deciding the provision of services, limited rights of appeal in early times and defence of an area.⁶⁷

England as a small-scale economy was driven from the workshop and home and directed by customary methods. Before the agrarian and industrial changes that transformed patterns of early settlement, the English population could be best described as agricultural in occupation. The Black Death had removed between a third to a half of England's population and large scale pastoral activities had to wait until sufficient food was available and the population increased.

It was to the local government structure of parishes that central government turned to cope with the impacts of concurrent bouts of plague and failed harvests, left-over soldiery from Wars of the Roses roaming the countryside and the loss of serfdom status which effectively gave men the right to starve.⁶⁸ Legislation suppressing vagabondage in 1547 also included instructions for parish curates in raising funds for the care and relief of the aged, infirm and poor:

...the curate of every parish shall according to such talent as God has given him, exhort his parishioners to remember the poor according to their means and the need there be for such help.⁶⁹

During the reign of Elizabeth I, with the loss of an overarching feudal management of the people, the parish vestry represented the best available local administrative

⁶⁶ Thompson, *An Essay on English Municipal History*, 93

⁶⁷ Jewell, *English Local Administration in the Middle Ages*, 44-45

⁶⁸ Jenks, *An Outline of English Local Government*, 23

⁶⁹ John J. Clarke, *A History of Local Government of the United Kingdom*, (London: Herbert Jenkins Ltd, 1955), 27

machinery capable of dealing with poor relief when work was unavailable. The Poor Law of 1601 re-empowered towns and parishes to manage their localities, even if the intention of central authority at the time was to address the breakdown of authority and society and re-establish central government (in this case the Tudors) as the locus of policy.

With the closure of the monasteries poor relief shifted from the religious to the public arena with the eventual introduction of the Act of Settlement.⁷⁰ Church wardens were empowered to undertake poor relief in their parish. Another linkage of local autonomy was created with assessment of parishioner's real estate property as the means to fix contribution rates and enforce collection. While initially focussed on local poor relief, over time as central authority again waned in influence, parishes and corporations also took on the management of highways, bridges, drainage, police and education.⁷¹ With legislated autonomy as a local authority, what was once religious duty for parishioners in caring for the less well off in the locality, transformed into public duty by paying rates and taking part in repairs to cover the cost of labour and materials.⁷² In what could be a definitive statement on the condition of local government, the justification was that "because a parish had the means to get things done more work was put on it."⁷³

Parishes preferred often to solve their own problems, rather than appealing to higher or outside authorities. As an example, in managing social norms of behaviour, parishioners appealed not to the local Justice of the Peace but to officers of the parish vestry to control anti-social behaviour. In one case the vestry was asked to put down an "outbreak of 'indecent and outrageous conduct' by the 'idle and disorderly young men and boys'".⁷⁴ Government of the parish evolved into a form of local government by consent. Where a parish acted and recorded its actions in parish minutes and accounts books, and confirmed such actions with "every man's hand consenting to it be set thereto", it became in effect a set of rules to suit the locality and authoritative guide for those who followed after.⁷⁵ While local parish officers were initially appointed by the local minister or by the local parishioners meeting as

⁷⁰ Clarke, *A History of Local Government of the United Kingdom*, 28

⁷¹ Jenks, *An Outline of English Local Government*, 23

⁷² Cumbræ –Stewart, "The English Background", 33

⁷³ *Ibid.*

⁷⁴ Webb and Webb, *English Local Government*, Vol 1., 60

⁷⁵ *Ibid.*, 52

a “vestry” to deal with ecclesiastical matters, local autonomy was further entrenched when a county’s Justices of the Peace began to take over the appointment of officers to administer to Poor Laws and act in positions such as Surveyors of the Highways.

These ideas of local autonomy were challenged with the reforms of the second period however they persisted in the creation of new municipal structures. The strength of local autonomy and how it is present in local government practices is very much a matter of how much control central government cedes to it.

Conclusion

As this section outlines there is a long history to the idea of local autonomy, of localities finding the means and the people to protect local interests. In the absence of a constitutional document that recognised local government as a tier of government the town charter and the later legislation creating parishes and corporations served to reinforce ideas and beliefs in a right to local autonomy

Section 4: Second reform period dilemmas for localism

Introduction

In this final section on developing an English tradition of localism, the question needs to be considered whether the ideas and beliefs that developed over time were challenged at any point, and how this then affected people's local government practice. In the events leading to the first period of reform and after, the new institutions of parish and corporation would have reinforced the ideas and beliefs that supported locality, local autonomy and permissive authority. It is the second period of reform that then becomes a focal point.

How did new ideas and beliefs challenge a very English way of life?

Leading to the second period of reform, the ideas and beliefs of local autonomy, permissive authority, local community and identity were being challenged by shifts in England's political economy and technology. Local government institutions and practice were found wanting in dealing with the impacts of these shifts on the nation's agricultural and town populations.

Ideas of community and identity with place depended on long association with land and locality. So when the peasant village surrounded by strip agriculture was subsumed into large farming estates through the enclosure of fields and improvement in agricultural practices, this had some significant effects on the lives of both the English agricultural labourer and the rising class of gentlemen farmers. For the later it enabled greater commercial returns. By 1750 Britain was exporting 13 per cent of its domestic food consumption.⁷⁶ But it also began to spell disaster for a country where upwards of 80 per cent of its population had been engaged in medieval strip farming practices or derived their income indirectly from agriculture.⁷⁷ Rising countryside industrialisation resulted in rural unemployment. The enclosure of the commons with commercialisation of agriculture into large estates saw the loss of a last vestige of feudal landholding that had provided sustenance to rural workers in depressed times.

⁷⁶ Paul Bairoch, trans. M. Grindrod, "Agriculture and the Industrial Revolution 1700-1914" in *The Fontana Economic History of Europe: The Industrial Revolution*, ed. C.M. Cipolla, (Glasgow: William Collins & Sons, 1973), 459

⁷⁷ Blanning, *The Pursuit of Glory*, 142

On the plus side the introduction of improved agricultural tools increased yields but with mechanisation in later years this decreased work opportunities. The landless labourer became dependent on wages and when these were insufficient, fell prey to a cycle of poverty and often engaged in petty crime to survive. Poor harvests created food shortages; subsequent price rises meant starvation, with subsequent food riots. Britain suffered harvest failures and trade depressions on a regular basis during the eighteenth century (1727-9, 1739-40, 1756-7, 1766-8, 1772-3, 1783, 1795-6, 1800-01, 1810-13).⁷⁸

Populations of dispossessed peasantry drifted to towns for employment and fell back on parish relief or the workhouse where work was not available. By 1841, agricultural employment had dropped to 26 per cent.⁷⁹ Wholesale clearing of populations from the land in favour of sheep grazing had added to the burden of rural populations seeking employment in town and having to fall back on parish relief. The *Enclosure Acts*, harsh *Poor Law Acts* controlling itinerant individuals and families through workhouses, limited seasonal agricultural work where labourers' wages were depressed by tenant farmers playing off wages with parish relief – all contributed further to a rising crime rate as people attempted to support themselves outside of any available, seasonal (and usually poorly paid) work.

By the mid eighteenth and early nineteenth century the towns and countryside of England experienced the demobilisation of thousands of untrained young men with the ending of the Austrian Succession and Napoleonic Wars. In the towns and cities, without the means to earn an income, unemployment and increasing rates of property crime resulted. Without a regular police force and an unwillingness on the part of landowners to tolerate or pay for one, the subsequent legal backlash, “a fat and swelling sheaf of laws” created a convict class ready for export to British colonies.⁸⁰

Similarly the ideas around local autonomy depended on the people in local government institutions being able to meet any locality challenges. The cost of maintaining the poor was proving difficult for a country that had had to pay for the costs of wars and then subsidise the peace. Industrial towns were swollen with farm

⁷⁸ Blanning, *The Pursuit of Glory*, 184

⁷⁹ Bairoch, “Agriculture and the Industrial Revolution 1700-1914”, 468

⁸⁰ Douglas Hay, “Property, Authority and the Criminal Law” in *Albion's Fatal Tree. Crime and Society in Eighteenth-Century England*, ed. Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson and Cal Winslow, 18 (London: Penguin Books, 1975)

workers who were ill-paid, ill-fed, overworked and poorly housed, creating stresses on the system of parish vestries and towns in meeting the demands for services, let alone a decreasing class of ratepayer able to afford the rates to do so.

Urbanisation of England's population had led to an increase in the size of its towns. London had dominated as the largest town exceeding 100,000 inhabitants; by the early twentieth century forty-four towns exceeded 100,000, the largest being 746,000. Where only 17 per cent of England and Wales population were living in towns exceeding 20,000 people in 1801, this grew to 61 percent in the same timeframe.⁸¹ Over the period of the nineteenth century the biggest towns were also attracting the most population, creating enormous stresses on the provision of town services by various local institutions.

The over-supply of labour meant wages could be forced down, both in the country and the industrialising towns. Those who had skills, such as handloom weavers and the spinners who supplied them, were made redundant by either the improvements of their equipment (the flying shuttle, the spinning jenny) of their crafts, or through mechanisation that enabled mass production of preferred consumer goods (for example, cotton) and the development of the factory system powered by steam.⁸²

The growth of populations of ancient parishes in the job-attracting manufacturing centres and other industries that developed in the cities, midlands and northern areas of England led to a breakdown of the parish as the unit of local government. Missing were the key economic and social ties that held society together.

The powerful tie of landlord and tenant or employer and wage-earner; the strong but intangible link of family relationship or inherited social status, uniting the squire with the clergyman and the country solicitor, the farmer with the handicraftsman and the labourer, and all these with one another, no longer strengthened and supplemented the bare legal relationships..in one parish after another, the slight legal framework of the parish fell hopelessly asunder...⁸³

The desires of the merchant class to own country estates meant that Justice was perhaps no longer a scion of an ancient family well known to the tenants and villagers, or those in a long standing town, but a:

⁸¹ Hennock, *Fit and Proper Persons*, 1. Hennock's calculations were based on comparisons of A.F. Webber's *The Growth of Cities in the Nineteenth Century* (New York, 1899) and Tables XVIII-XX: *Census of England and Wales*, 1911, 1, tables, VII, IX.

⁸² Anthony Wood, *Nineteenth Century Britain; 1815-1914*, (London: Longmans, 1960), 4-16; see also H.A.L. Fisher, *A History of Europe: From the Early 18th Century to 1935*, Vol. II, (London: Collins, 1935), 870-871

⁸³ Webb and Webb, *English Local Government*, Vol 1., 61, 63

...country magnate, living far away from the new urban district; or, what was worse, a partially enriched tradesman with merely commercial traditions, who had, for personal ends, intrigued himself into the Commission of the Peace.⁸⁴

These economic and social problems in England through the nineteenth century saw a shift in policy power back towards central government through various parliamentary reforms. In the political battles between the Anglican-Tory establishment and Whig middle-class in the early 1800s, municipal reform slowly shifted the balance of power over the period of the nineteenth century away from small, multiple local institutions to larger municipal institutions that enabled more centralist reforms to take place by the early twentieth century.

Local government's future was to be based on uniformity of administration, a combination of authorities and the consolidation of rates.⁸⁵ Ideas of who represented whom, who could fill office and under what conditions, and just how large the sphere of local concerns could be, were all to be effectively turned on their head. Until this time, the ideas and beliefs that dominated local government policy in England resided within a tradition of localism that was built up over a long period. Through the second period of reform, the power of those ideas and beliefs waned in favour of those of the affluent, previously excluded wealthy industrialist class as they began to flex their political and economic muscles, and seek institutional reform. There was an "alienation of all the landed interest from the ancient plan of freedom" providing opportunities for the rational centralists to challenge the ideas of benevolent paternalist localism.⁸⁶

Identity, community, political control of economy – all were changing and these changes were challenging the validity of local government institutions and practice. The second period of reform with the shifting of populations to urban area created new ideas of what constituted community and identity. The "thrusting" township manufacturing economies had exposed the incapacity of local government institutions to cope with the influx of populations and subsequent problems of sanitary drainage and law and order.

Parliamentary responses were necessarily slow given the close linkages between those representing local constituencies and taking part in parliamentary and

⁸⁴ Webb and Webb, *English Local Government*, Vol 1., 61

⁸⁵ Clarke, *A History of Local Government of the United Kingdom*, 50

⁸⁶ Everett, *The Tory View of Landscape*, 12

municipal elections. It took much of the nineteenth century to finally reconfigure ideas of local permissive authority and autonomy away from local Bills being the work of Parliament to more general Acts that covered all of Britain in their application.⁸⁷ Yet where previously local initiative drove the development of parliamentary legislation with local or private Bills addressing the particular needs of only one locality, general acts began to address the similar needs of towns. Where once legislative measures were discretionary, compulsory measures created more even, professional institutions and practices. The management of poor relief and public health shifted from the parish vestries to the municipal corporations. Local government slowly took on public education, policing, housing, libraries, improved sanitary controls, burials, walks and recreation grounds and roads responsibilities. It was empowered to raise monies for infrastructure creation and engaging in municipal trading. Local initiative and local supervision were replaced with minimum standards and a degree of systematic central supervision; a situation made palatable by accompanying grants in aid. Local government, once concerned to only occupy a very localised sphere of influence with elementary institutions, found its reach extended by taking on wide social purposes and provision of urban services.

While reform was slowly reshaping English society through various legislative measures commencing between 1818 and 1894, England was exporting its surplus populations for at least the first half of this period, convicted as well as free settlers who saw an opportunity to better themselves and grabbed on to it, towards its colonies. The mix of rural and township convicts (noting that even those from towns would likely originally be displaced rural workers) carried their ideas and beliefs onto transport ships bound for the colonies. The idea for the free settlers was to get land:

With by far the largest portion of emigrants, the acquisition of land – a *territorial* possession – is the alpha and omega of all their aims – the object of their thousand-and-one day-dreams – the airy castle, too frequently impalpable to touch (in England).⁸⁸

⁸⁷ Hennock, *Fit and Proper Persons*, 4

⁸⁸ David Burn, *A Picture of Van Diemen's Land*, (London: 1840-41 Facsimile edition Hobart: Cat & Fiddle Press, 1973), 182

In the 1820s and 1830 enterprising colonists were being enticed to Van Diemen's Land with glowing reports of the riches to be had.⁸⁹ With the end of the Napoleonic wars and the cessation of port controls by 1815 through a rising free trade sentiment in England, travel for free settlers and trading through the ports of Hobart and Launceston became much easier.⁹⁰ Compared to staying in post-war economically depressed Britain, the prospect of travelling to the colonies with the opportunities of free grants of land and convict labour came to be viewed very favourably indeed. Van Diemen's Land was to be the:

...rich and happy home to countless thousands of Britain's starving sons – whose sinewy arms would cause the genial soil of Tasmania to teem, in glowing luxuriance, with golden grain.⁹¹

Conclusion

The period of the Agricultural and Industrial revolutions in England challenged ideas of community, identity, local autonomy and permissive authority in what was a largely agricultural society to one of industry and invention. Unable to cope with challenges of dislocated populations, poor harvests and economic downturns, the local government institutions of the parish and corporation were found significantly wanting. Central intervention by Parliament re-landscaped the form of local government institutions and practices, creating larger entities with more uniform legislation. At the same time Britain was exporting both free settlers and convicts to its colonies. Given the slow rate of reform, it is reasonable to argue that those who left England's shores were largely men and women whose ideas and beliefs would have been more in tune with those of the period *prior* to the second reforms, a people whose lives and customs were based more in the agricultural society of pre-1800s England, than the later 1900s.

⁸⁹ See for example, G.W. Evans, *A Geographical and Topographical Description of Van Diemen's Land, with important hints to emigrants and useful information respecting the application for grants of land*, (London, 1822 Facsimile edition, Adelaide: Griffin Press, 1967).

⁹⁰ Price, *British Society 1680-1880*, 117

⁹¹ Burn, *A Picture of Van Diemen's Land*, 180

CHAPTER 5 CONCLUSION

This chapter set out to explore a tradition of localism in located in England relevant to local government. Over three sections it considers ideas and beliefs of sense of place, community and identity, permissive authority and local autonomy. It then considered how economic and social changes provided such challenges to the system of local government, the web of Justices, parishes and corporations, and how centrally imposed reforms were needed to create a more efficient system of local government. The ideas and beliefs that were built up since earliest days took the best part of the nineteenth century to reform and in the end local government was national in its application. Permissive authority and local autonomy were transformed by the introduction of new municipal structures.

Comparing the first and second period, and given the timing of settlement in Van Diemen's Land, the question then becomes one of not whether the populations of the island carried with them the ideas and beliefs of a localist tradition. It would be unlikely if they did not as such traditions are built up over long periods of time and handed on through practice and society. The question is, were they more likely to carry with them the ideas and beliefs of the period *prior* to the second reforms? The slow process of reform in England took over much of a century and by that time the colonists were effectively on Mars. Even allowing for the Great Circle Route for sailing, they were six months away from news at home, in an isolated challenging environment with small populations in an agriculturally based society. The ideas and beliefs that travelled in them can be reasonably assumed as not those of the second period of reform, even if they were enterprising colonists. They were travelling out for land, and obtaining land is a hallmark of an agricultural society. How did ideas of local autonomy, permissive authority and sense of place survive in what started out as a military penal colony, and did they persist? This is the subject of the next chapter.

PART II: A TRADITION OF LOCALISM

CHAPTER 6: THE CASE FOR A TASMANIAN TRADITION OF LOCALISM

CHAPTER 6 INTRODUCTION

In the previous Chapter, the case was made for a local government tradition in English local government based on written sources given the period being examined. Written sources will now also be examined for the presence of a localist tradition in Tasmania from introduction to the island and covering various reform periods.

If there is evidence for such a tradition, does the evidence best demonstrate ideas and beliefs are more closely aligned to those present in England prior to its second period of reform? If yes, how long did these ideas and beliefs persist, and if they have, is this an explanation for why reform has been or may continue to be, so difficult? To test current attitudes, and as the first cut at exploring these questions, the researcher interviewed local government mayors to listen to what they are saying.

This chapter considers in three sections the evidence for a localist tradition. Section 1 looks at localism as a sense of place, Section 2 considers permissive authority and Section 3 looks at local autonomy. Is there any persistence from the first reform period of the ideas and beliefs into current times? If yes, how have dilemmas impacted on consequent local government practices?

Section 1: Localism as sense of place: Small, beautiful and isolated¹

How is it possible that a land so privileged by nature comes to be inhabited by such an uninteresting population? I never saw any people more peaceful, more ordinary, more bourgeois, more provincial, more behind the times.²

Introduction

To provide a setting from which to draw evidence of the existence of a localist tradition in Van Diemen's Land/Tasmania, an extensive description of the island and people's reaction to it is used to build a picture of how the English settlers re-created a familiar British-style landscape with their customs and habits layered over the Tasmanian landscape.

Did the patterns of settlement and types of manufacturing as well as changing the land to accommodate European farming and pastoral activities in Van Diemen's Land and later in Tasmania differ from England in developing a sense of place? Further, did the nature of the island's geography add to how the English settlers felt about their place within it?

Small, beautiful and isolated³

The Tasmanian mainland is a comparatively large island (62,409 km²) located 240km off the south eastern continent of Australia, situated at between forty to forty three degrees south, one hundred and forty four to forty eight degrees east. As a large island in the middle latitudes, it is isolated from the mainland by a wide strait of water (Bass Strait) framed by two major island systems (Flinders and King). It enjoys a maritime temperate climate with rare temperature extremes due to the sea never being more than 115 kilometres distant from any shore. Compared to England, it lacks harsh winters and the scorching summers and tropical heat of mainland of Australia, as one visitor observed:

¹ Geographic details summarised from the *Tasmanian Year Book 1998*, (Tasmania: Australian Bureau of Statistics, 1997) and from Leonard Cerutti, ed., *Handbook for Tasmania*, (Hobart: Government Printer, 1949)

² Paul Blouet, quoted in Stephen Murray-Smith, *The Dictionary of Australian Quotations*, (Richmond: Heinemann, 1984), p. 207

³ Geographic details summarised from the *Tasmanian Year Book 1998* and from Cerutti, *Handbook for Tasmania*

The curse of the country is the indolence of its lotus-eating population, who, like all dwellers in climates cool but winterless, are content to dream away their lives in drowsiness to which the habits of a hotter, but less equable climate – Queensland for example – are energy itself.⁴

Successive waves of Aboriginal immigration have shaped the land, over thousands of years of the use of fire to aid hunting, and then in the last 200 or so, clearing of land for farming, the development of forestry and mining industries, hydro-industrialisation, and urban and industrial development. Nonetheless, the terrain and climate still dictate access, with parts of the island even today made impassable by weather events or major roads being blocked.

On observing Tasmania's geography, a picture emerges of a place that, while small and isolated, strongly shaped human interaction with it. It has to be remembered that the early decades of Van Diemen's Land was dominated by its status as a penal colony first, and as a place for free settlers to make money, second. Colonial Office policy combined with the office of the Lt-Governor of Van Diemen's Land and the Governor of the colony of New South Wales (until separation occurred) as the source of law in the first recourse. The Colonial Office in England was six months hazardous sea voyage away and back if anyone disputed the decisions of these military administrators. The island was impossibly remote from England - the nineteenth century equivalent of exile to Mars today.⁵

The British Admiralty Pilot Book describes the island as being "probably the most thoroughly mountainous...on the globe".⁶ Eight mountains exceed 1,500 metres, 28 are above 1,220 metres and much of the Central Plateau area is above 900 metres. Tasmania has a rugged coastline and in places deep estuaries, and is covered with an extensive network of freshwater creek and river drainage systems. It has four major offshore islands (King, Flinders, Bruny, Maria) and many smaller ones (see Map 1). As a State today it totals 334 islands. The Southern Ocean bounds the coastline on the south and west, with the Tasman Sea on the east. The central western portion of the island is the most mountainous, dotted with glacial lakes, alpine heathlands and buttongrass plains. The middle and top of the island is characterised by sweeping grassland flat plains (medium to lightly forested pre-English settlement) in a T-

⁴ C.W. Dilke, *Greater Britain: A record of travel in English-speaking countries during 1866 and 1867*, 5th ed., (London: Macmillan and Co., 1870), 358

⁵ Niall Ferguson, *Empire: How Britain Made the Modern World*, (Camberwell: Penguin Group Australia, 2008), 102

⁶ Canberra, Bureau of Census and Statistics, *Tasmanian Year Book No. 2*, (Hobart 1968), 28

shape, hemmed in and bordered by eastern and central highland mountain ranges with deep forests and rainforest gullies.

Remote from England, the island was difficult to travel around and formed a natural prison in itself.⁷ The grassland flat plains located right of centre in the island were relatively quickly occupied, being easy to traverse and clear for pastoral and agricultural activities.⁸ The settlement pattern followed one of townships with outlying small villages and hamlets, occupied by either servicing the pastoral properties or as coaching stopovers on the highway between Hobart and Launceston, or as ports for maritime industries (sealing, whaling). The physical development of towns and hamlets echoed improvement ideas of rural Britain, where villages were laid out to serve the great estates.⁹ In the case of many townships, they were in fact convict probation stations that served to house the labour for the large estates and infrastructure work needed to connect the island. Around 1816 Governor Macquarie insisted that new buildings had to be of brick or stone and built in the then current English “Late Georgian” fashion.¹⁰ This fashion remained in vogue into the 1860s, built from detailed plans and specifications procured from England. Significant remnants of Georgian architecture remain with their patterns of English plantings in and around them, especially in the townships that stretched from Hobart to Launceston and along the easily settled areas of the northern coast.¹¹ In places, remnant hedgerows still border the remains of what were once large pastoral estates until broken up by soldier settlement schemes in the early twentieth century.

For the British visitor today, the island would have strong reminders of both an earlier England, before centuries of settlement, forest clearing and farming had irrevocably changed the landscape and the rural England of pre-Victorian days. It took around sixty years to investigate and start mapping with some accuracy the

⁷ Attempts to sell “paper towns” were abandoned by 3 July 1845 on the realisation many planned reserves were “ill-adapted” for the purpose. See Michael Holmes, *Vanishing Towns: Tasmania’s Ghost Towns and Settlements*, (Hobart: Forty South Publishing Pty Ltd, 2014), xi

⁸ See maps in Sharon Morgan, *Land Settlement in Early Tasmania: creating an antipodean England*, (Cambridge: Cambridge University Press, 1992), 11, 12, 14, 17, 18, 20 and 21 illustrating the gradual spread of land alienation to 1823.

⁹ Everett, *The Tory View of Landscape*, 39

¹⁰ Michael Sharland, *Stones of a Century*, 2nd ed., (Hobart: O.B.M, 1969), ix

¹¹ See for example the extensive photographic and historical notes in the three following publications: Alice Bennett and Georgia Warner, *Country Houses of Tasmania: behind the closed doors of our finest private colonial estates*, (Crows Nest: Allen & Unwin, 2009); Frank L. Rigney, *A Midlands Odyssey: A Journey through Parts of the Northern Midlands of Tasmania*, (Launceston: Bokprint, 2008); Michael Sharland, *Stones of a Century*, 2nd ed., (Hobart: O.B.M, 1969)

island's complex topography from the start of British occupation. This extensive investigation had to be on foot with repeated forays into the heavily forested and rugged terrain. Those who undertook the task required physical strength, endurance, and an ability to cope with the extreme isolation, as well as the skills of surveying without the sophisticated equipment that exists today. Some explorers were transformed by their experience of the landscape. While exploring the western mountains in 1859, Tully wrote:

Belts of myrtle forest are also occasionally seen with the characteristic vegetation which is invariably found with it, - the darker hue of its foliage and the depth of its shade, afford an agreeable contrast to the gayer green of the gum trees, and the wide plains which stretch away for miles, broken here and there by a line of picturesque trees. To an artist, no portion of the Island affords more variety - every description of scenery abounds - from the Arcadian to the Pyreneean, and the latter in its finest and grandest aspect...One bright moonlight night there was a thunderstorm...it was many miles off, but the flashes and streaks of lightning were plainly visible, - it was grand to see the horizon gleaming with yellow light, and two or three links of dazzling brightness connecting the clouds with the earth...the beauty of the scene lay in the surrounding hills chequered in the moon's rays, at one time bright as day, and in the next moment steeped in shade.¹²

Others were not. For many, land was always there to be transformed for man's use, to be improved from wasteland into landed wealth, a view widely shared and practiced in the colony as the number of free settlers increased. When surveying the western areas, Calder commented:

The general character of our landscape is, to my taste, displeasing; for notwithstanding the diversity of surface a mountainous country ever presents, it acquires in Tasmania a disagreeable monotony, from the unvarying hue of our black and interminable forests.... An irrepressible feeling of regret involuntarily overcomes us as we survey (the land), and reflect that all this immense waste is without a single inhabitant. Not the faintest trace of its occupation by man is apparent. No homesteads or roads, no enclosures or cultivation, attest his presence; but, on the contrary, the country would not look more void of animation."¹³

Tasmania's soils vary in location. Rich volcanic and alluvial soils alternate with poorer sand and mudstone profiles affecting the success of patterns of agricultural practices imported from Britain. Generally, once cleared of forest and in many cases needing drainage, the northern and northwest soils were found to be suited to

¹² William A. Tully, "The Western Country", *The Mercury*, 27 April, 1859

¹³ James E. Calder, "Some account of the country between Hamilton and the Frenchman's Cap", *Hobart Town Courier*, 21 September, 1850

dairying, beef cattle and fodder crops. Midlands soils, again once cleared of forest, have supported productive pasture, being largely used for sheep grazing, as well as grain and other crops. The ease of clearing contributed to initially large land grants and development in the flat plains of the Midlands, the Derwent valley and much of the eastern shores of the Derwent toward what is now around Sorell and the Coal Valley by 1823¹⁴. The heavily forested south eastern soils were found to be suited for pip and stone fruit orchards as well as smallholding farming and cattle.

Development of the landscape through population spread has been affected by widespread dolerite intrusions as well as quartzite, granitic and volcanic rock areas, forming distinctive mountains and cliff faces, channelling watercourses, hiding valleys and creating inland microclimates.¹⁵

The combination of prevailing winds and its glacially carved topography of mountains and lakes created a wetter, colder climate on the western side of the island with heavily timbered wet eucalypt and temperate rainforest understorey forests. The eastern coast is sunnier, milder and dryer, with dominant dry eucalypt forests. During winter, snows can make areas of the highlands impassable although they do not last for long. Overall, climate conditions for the island are milder compared to similar latitudes in the northern hemisphere, described as cool temperate and with four distinct seasons affected by maritime weather patterns, again similar to but milder than Britain.

Compared to mainland Australia, Tasmania has a physically greener appearance aided by both the higher rainfall and milder summers, and with the introduction of northern land management techniques and plantings. Within thirty years of settlement the island had for many a new settler, and visitors today, the comforting appearance of a “little England” in various places, with familiar English trees and gardens, and land cleared of native trees and grasses to make way for English pasture. Meredith praised one property’s “large garden and orchard, well stored with flowers and fruits cultivated in Britain”.¹⁶

¹⁴ Morgan, *Land Settlement in Early Tasmania*, 21. See Map 7 Location of grants 1823.

¹⁵ Geographic details summarised from the *Tasmanian Year Book 1998*, and from Cerutti, *Handbook for Tasmania*. See R.J. Solomon, *Tasmania*, (Sydney: Angus & Robertson, 1972), 14, 37-40, 65-71. See also David Leaman, *The Rock which makes Tasmania*, (Hobart: Leaman Geophysics, 2002)

¹⁶ Louisa Meredith, *My Home in Tasmania*, Vol. 1, (London: John Murray, 1852)

When mining, agricultural and commercial trading opportunities were developed on the West Coast region and the northern port towns and Launceston, people from those areas looked northwards in developing closer commercial relationships with Melbourne in Victoria, rather than the seat of government in Hobart. In the path of the wind belt called the Roaring Forties, travel by water is especially hazardous along the West and South West coasts and it was easier to go north, rather than travel south.

The port of Hobart on the River Derwent has a very deep harbour located in a protected estuary, making it an ideal location for commercial and urban development. It moved through periods of whaling, sealing, fishing, industrial and agricultural export being advantageously positioned for the Great Circle sailing route's strong westerly winds in the Roaring Forties. Today it serves for export of mineral products from an adjacent refinery, import of fuel, some shipping container movements, tourism and a burgeoning science research industry focused on Antarctica, sub-Antarctic islands and the Southern Oceans.

The extensive sets of mountain ranges shaped the patterns of settlement and also contributed to the sense of isolation over much of the island. New arrivals (convict or settler) needed to display ingenuity and self-reliance in making homes and farms succeed. Isolation meant developing a strong sense of self-reliance, resilience and adaptation to circumstances, and the skills and strategies needed to carve out a new life in a strange land. Vandemonians/Tasmanians in rural and pastoral occupations developed a reputation that lasted well into the late 20th century as tough, resilient men and women, as legendary stockmen, excellent horsemen and crack shots.¹⁷ Central Plateau shepherds were noted for hardiness with the ability to sleep in the snow around campfires "clad only in a bluey coat, flannel shirt and trousers".¹⁸ Until the advent of hydroelectric development, education and mass media in the 20th century, Central Plateau people were renowned for unique habits and customs, with a regional dialect that would have been more familiar to early colonial settlers.

¹⁷ C.J. Binks, *Hills of the west wind: reflections on the Tasmanian landscape*, (Geelong: Barrallier Books, 2006), 247; Jetson, *The Roof of Tasmania*, 97; *The Mercury*, 5 March 1900. Ned Terry, *Pioneers and their Memories of Tasmania's High Country*, (Tasmania: Edward Terry Vincent, 2007) details the lives of trappers and snarers, shepherds, prospectors and timbermen in the Central Plateau, Blue Tier on the East Coast and the north west of Cradle Mountain to current times through transcriptions of interviews and media sources.

¹⁸ Jetson, *The Roof of Tasmania*, 110-111

In the equally remote areas of Western Tasmania, cattle drovers are described as an “uncomplaining set of men (suffering) in silence difficulties and hardships of which the townspeople have not the slightest conception of”.¹⁹ The land farmers of the area also faced tremendous hardships in trying to gain a farming existence from land in the northwest:

...unless he has had assistance from extraneous sources; not one man who had cleared and farmed a forest farm, paid for labor at current rates, and made it pay. A few more years, and the storekeeper who had supplied the provisions, or the mortgagee who has found the money will own the hardwon(*sic*) freeholds.²⁰

The pioneering populations of the northeast and in the far southern areas all displayed similarly strong resilience and development of distinctive farming communities, creating outposts of Victorian respectability, strong religious affiliations and eventual prosperity. Heavily forested areas required some years of work to clear for small farm holdings, and in very isolated locations serviced by rough tracks or located along navigable rivers. The problems of road construction and the costs of bridges added to the problems of isolation, “of hardships and isolation ... suffered from the want of roads and bridges... no provision having been made for roads, or even rights of way when lands were surveyed and sold” to early settlers.²¹

The mountainous nature of the landscape meant population spread has largely been confined to coastal areas and along river estuaries. Townships initially developed in the plains that stretched between the first two major settlements of Hobart Town (south) and Launceston (north). Expansion into the hinterland towards and through the midlands due to agricultural and pastoral settlement was along the river systems of the Derwent, Tamar, Macquarie, North and South Esk and Ouse. Once the best farming and pastoral land was taken up, new farming (potato and dairying), forestry and mining regions gradually opened up in the southern, north east and west reaches of the island, providing fresh economic opportunities to exploit the natural resources present and establish a pattern of townships. Post Federation, the gradual

¹⁹ Tim Jetson, “*It’s a Different Country Down There*”: A History of Droving in Western Tasmania, (Smithton: Circular Head Bicentenary Project Team, 2004), 59

²⁰ *Examiner*, 25 September, 1862

²¹ James Fenton, *Bush Life in Tasmania Fifty Years Ago*, (London and Aylesbury, Hazell, Watson, Viney & Co, 1891 Facsimile edition 189 Launceston: Mary Fisher Bookshop, undated reprint), 136

development of hydroelectric power schemes, through damming of rivers and central highland lakes, powered industrial developments (mineral, food and textiles) on the West Coast, Northwest and in the flat urban land of Hobart.²²

In the second century of settlement post-war changes in prosperity enabled home and car ownership to eventually become widespread, disconnecting people's home and work places. Suburbs spread out from the major cities and towns, connecting once separated communities into seamless conurbations. Changes in employment shifted populations from agricultural areas into the cities and suburbs. As a process of urbanisation and development over two hundred years, the population centres are still largely located in the greater Launceston and Greater Hobart areas. Where people choose to live today is now less likely dictated by where they work. For example, burnt, barren ruins mark where Gormanston once thrived on the West Coast and it is hard to visualise the once-active mining town sufficiently large to be a municipality in its own right. Miners working on the West Coast are more likely to live in the northwest townships and cities although those engaged in forestry and aqua-and-agriculture are still likely to live in adjacent communities much as earlier workforce populations did. Economic and political changes have erased towns as centres of commercial, mining, government and agricultural endeavour when 19th and 20th century maps are compared.²³

The slow economic and population growth of the island has its roots in decisions taken in early days. Roderic O'Connor, one of Lt-Governor Arthur's Land Commissioners, publicly bemoaned the consequences of the haphazard and corrupt processes that saw most of the best pastoral and farming land ending up in the hands of the pre-1830s colonists. Opportunities for new settlers were limited and the flow of migration all but stopped:

...how many respectable Settlers have departed from this Island, because they found all the best land occupied.²⁴

This did not deter the free settlers of Launceston. As a society, they could not be more different than their southern neighbours. At the other end of the island, seven day's hard ride from the seat of government, they developed a city with a more open

²² Summarised from Solomon, *Tasmania*

²³ See Holmes, *Vanishing Towns*

²⁴ Anne McKay, ed., *Journals of the Land Commissioners for Van Diemen's Land 1826-28*, (Hobart: University of Tasmania in conjunction with the Tasmanian Historical Research Association, 1962), 12

and stronger democratic culture backed by a vigorous middle class of businessmen and shopkeepers.²⁵ Expressing an opinion did not require permission from Lt-Governor Arthur “down south”:

Never mind about this or that official who comes here and gives orders, he is only a servant; the people who live here are as important as those of any place, even if far away, and they should let the world know they exist and have opinions on the great contemporary events of the day.²⁶

Seeing the opportunities for trade and prospects for farming and pastoral activities (abundant cheap land being the chief attraction), an association of businessmen and pastoralists risked expanding into Port Phillip in 1835 before official sanctions were granted in 1836.²⁷ For a short time the economic wealth created by merchants, farmers and pastoralists was funnelled back to Van Diemen’s Land, until the Victorian colony was not only self-sufficient but also put in place tariff barriers against colonial Tasmanian trade adding to the general downturn in the economy after the 1870s. For those left behind, it was a difficult situation:

...people here are disposed to look to “protection” as a remedy for their troubles – I don’t suppose they will get it. Possibly this Island would do better as part of Victoria, but the Islanders will hardly assent to that. Its a small Government, & a small community to legislate for. The Island cannot compete with the Mainland. Its soil is expensive to cultivate, & its natural grass inferior & kept back by a colder winter & backward spring. Without doubt the people on the soil are discouraged. One of our neighbours, who holds over 2000 acres, called to get me to sign a requisition for a protectionist meeting; one of his arguments was: to protect ourselves was the only way to secure by & bye, free trade in all the Colonies. I didn’t sign. But I was struck with one doleful remark. ‘We have no chance against the people in the other colonies. Its all hard work here. I am sure I don’t know what we stop here for at all, unless it is because we love the old island...’²⁸

Launceston presented a different face of island society - one of religious non-conformity, self-improvement and political liberalism.²⁹ Populations in the north of the island would find themselves at odds politically and socially with the administration in Hobart, particularly when authoritarians such as Arthur, and later,

²⁵ Reynolds, *Launceston: History of an Australian City*, 44-51

²⁶ John Fawkner quoted in Reynolds, *Launceston: History of an Australian City*, 55

²⁷ James Boyce, *1835: the founding of Melbourne and the conquest of Australia*, (Collingwood: Black Inc, 2011), 47-56

²⁸ Letter from W. May (Swansea, East Coast) to F.C. May (His Nephew), S.A. (May Papers) 28 October 1887 in *Reports on the Historical Manuscripts of Tasmania, Numbers 1-7*, Revised Edition, (Hobart: University of Tasmania Department of History, 1964), 174

²⁹ Lloyd Robson, *A History of Tasmania*, Vol. 1, (Melbourne: Oxford University Press, 1991), 483-512

Denison, occupied Government House. In contrast to Hobart, for example, Launceston was a stronghold for anti-transportation campaigns. Such campaigns were more largely linked to the desire for free institutions rather than any radical politics.³⁰

Not much appears to have changed regarding the north-south divide in Tasmania:

I think if you look at, this is getting parochial a bit now, but with the north we've been neglected in some areas by certain State governments over a period of time. Now the south think they have been (laughs) so it's a, we both have that and I think the north west feels they have been and that's why the strong vote in the north west was dead against the current government, four to one, I mean, you can't get any stronger than that really. Maybe five to nil, but, pretty strong and they feel that they've been neglected and I, you know, and that's just something that's, it's sometimes it's perceived but sometimes if you look at the dollars that are spent in areas, how much has been by the State government that is put into certain areas of the State, it is less in parts. Now the problem Tasmania has, we have a population where fifty per cent is in the South, and fifty per cent is probably in the north and north west. No other State's got that. We're different to any other State. If you go to Melbourne or Sydney or Victoria or New South Wales, eighty per cent, seventy per cent of the population is in the capital city. It's not in it in Tasmania, it's not like that... Hobart was more the political side of things, got the bureaucrats and things, that's been part of the history of this State, I think. We try to work through it at times ...but ingrained is still this north-south divide because, and the main is because the population has grown in both the same. I think if you had eight per cent of people in Hobart there wouldn't be an argument for much else.³¹

Tasmania's population has not enjoyed the same growth compared to other States. Already in the beginnings of an economic depression by the 1840s, the discovery of gold in 1850s in Victoria led to outflows of the strong, able-bodied males, creating problems with retaining workers for industry. The upside was that combined with the cessation of transportation, the ratio of men to women improved markedly. Stagnant economic conditions contributed to population movement to other States, particularly of the young, setting a demographic pattern that persists to this day. For Hobart, with the cessation of transportation and therefore British commissary funding being withdrawn, it entered a 15-year slump in economic activity until mining discoveries on the West Coast generated new prosperity. Even this did not last. After 1856 other Australian colonies' tariff barriers and a lack of widespread

³⁰ Terry Newman, *Becoming Tasmania: Renaming Van Diemen's Land*, (Tasmania: Parliament of Tasmania, 2005), 25

³¹ Interview: UR3

industrialisation hampered successive weak State Colonial governments. The pace of social and economic development was slow, despite the creation of municipal government for towns and rural areas, mineral discoveries and industrialisation from the 1870s onwards and the development of railways.

Federation and the injection of Federal government grants proved a turning point for the State's finances, enabling development of services and infrastructure throughout the twentieth century and buffering the problems of a State with comparatively low population and a commodities-based economy. In 1881 the population had grown to 115,705; by Federation, twenty years later, it was still only 172,475 people. It took around another 100 years to reach the half million mark, affected by economic booms and busts, epidemics and health improvements and world wars. Progressive ideas to improve society had a metropolitan emphasis - the country was viewed as clean, fresh and healthy. In reality isolated rural and mining populations continued to live in settlements with poor quality housing, no sewerage systems or electricity and contaminated water supplies. Employment was casual or seasonal. Health care, education, transport and communication services were either non-existent or difficult to access.³² The contrast between town and country life was "stark". It was observed that due to economic depression and stagnation in the rural district of Richmond-Cambridge that as late as the 1980s it still preserved the social and physical model of a much older pre-Victorian township. Farming techniques and customs reflected an older period although these were overtaken by industrialisation post World War I. Post World War I the formality of middle-class society in Richmond was likened to "something out of *Jane Eyre*".³³

Major highways now bypass once-thriving agricultural towns or the markets for their produce have all but disappeared. This pattern continues today with changes in technology, transport and communication and the impact of global markets on Tasmanian agriculture and industry. Today the majority of the population is engaged

³² Jillian Koshin, *Electric Eric: The life and times of Eric Reece an Australian State Premier*, (Launceston: Bokprint, 2009), 11-17, 20-21

³³ Peter MacFie, "Oral History and the Demise of Folk Culture in the Richmond District", *Tasmanian Historical Research Association*, 29, no. 3, (September 1982): 103. Anecdotal stories of life in other parts of Tasmania reveal the slow pattern of development, such as those told by Julie Gardam, *Peppermint Bay: a history of the Woodbridge area from settlement to the 1967 bushfires*, (Snug: self-published, 1991), Phoebe Wilson, *Worn Hands and Tasmaniana*, (Oatlands: self-published, 1971 and W.H. Macfarlane and John Beswick, ed., *Macfarlane's History of North East Tasmania*, (Scottsdale: North Eastern Advertiser, 2007)

in manufacturing and services industries having shifted away from traditional industries and markets that dominated employment in the 19th and most of the 20th century.³⁴

Yet some communities have been able to reinvent their identities through changed responses to land use. Where agricultural, pastoral, sea fishing or mining activities have declined, industries such as tourism, fish farming and boutique agricultural produce have started to flourish or the townships have become commuting suburbs, driving a change in what community means:

I think the commonality is really there because as I said the main economic drivers is tourism, aquaculture, agriculture, um now forestry was certainly one, whether that's as relevant now as what it was, I'm not too sure, and manufacturing...³⁵

Given this description of the island, did it shape a Tasmanian consciousness? The Tasmanian landscape exists of itself. The variations in its vegetation and geomorphology are synonymous with the names given to its regions. The white sands and dry forests of the East Coast could not be more different from that of the West Coast. The idea of land as something to be used has also become one of something to be valued for the intrinsic values of it “variety, grandeur and intricate beauty” alone.³⁶ Today three quarters of Tasmania's landmass enjoys some form of protection from unsympathetic development with much of it internationally recognised, or promoted as such, through World Heritage status.³⁷ Tasmanian identity is now wrapped up with its landscape, not that of distant England.³⁸

Where regional communities in Tasmania argue they are different from each other (sometimes even from adjacent townships) such difference may well be sheeted home to how the pattern of settlement was affected by place and locale, given the wide variations in Tasmania's geography. Tasmania was exhibiting marked regional differences, economies and outlooks as late as 1939, with the population's speech

³⁴ Australia, Australian Bureau of Statistics, 2011, *Tasmania at a Glance 2011*, cat. no. 1305.6, AGPS, Canberra

³⁵ Interview: RR1

³⁶ Martin Hawes, *Above Me Only Sky*, (Hobart: Drinkwater Publishing, 1981), 16. See also Binks, *Hills of the West Wind*, 341-353

³⁷ See for example Ralph Ashton, ed., *Tarkine*, (Crows Nest: Allen & Unwin, 2004), Chris Bell, *Beyond the Reach: Cradle Mountain-Lake St Clair National Park*, (Sandy Bay: Laurel Press, 1990) and Peter Dombrovskis, Bob Brown, Peter Jackson and Jamie Kirkpatrick, *Wild Rivers*, (Sandy Bay: Peter Dombrovskis Pty Ltd, 1983)

³⁸ See for example the marketing of Tasmania by the State Government's *Discover Tasmania*. <http://www.discovertasmania.com.au/about/articles> Accessed 5 March 2016

habits and expressions marking a person out as Tasmanian.³⁹ Telephone books still listed subscribers under tiny districts reflecting the inwardness of social and economic life.⁴⁰ The influence of religion shaped the identity of insular rural communities by providing support for education, money for building churches and sharing through social customs and intermarriage.⁴¹ In 1963 a prominent businessman was urging the State Government to set aside a significant sum of money for overseas travel for parliamentarians and public sector heads:

Australia, and more particularly Tasmania, because of their isolation had to visit the larger population centres of the world to see new development. This particularly applied to Town Planning, Road Making, Bridge Building and Home Building.⁴²

The idea of “community of interest” was used in the past and is still used to defend maintaining identity. Such a concept has perceptual, functional and political aspects to it. It encompasses a sense of belonging to an area or locality, shared provision of services and the ability to represent the interests of and reconcile conflicts within a community.⁴³ Working in favour of developing a strong “community of interest” are the isolating factors of Tasmania’s geography and boom and bust pace of development and communications, more so in the settled areas outside of Hobart and Launceston. Early settlers relied on each other’s resources in isolated areas. It is difficult today with the presence of good roads and widespread opportunities for purchasing items as they are needed to imagine how vital the loans of equipment between neighbours were in clearing and developing land. These bonds developed when women relied on neighbours to assist with childbirth and rearing in the absence of local doctors.⁴⁴ Isolation had lessened by the 1950s but it was still difficult living in mining communities such as Rossarden:

³⁹ Lloyd Robson, *A Short History of Tasmania*, (Melbourne: Oxford University Press, 1985), 163
⁴⁰ *Ibid.*, 157

⁴¹ See for example D.I. Henslowe and I. Hurburgh, *Our Heritage of Anglican Churches in Tasmania*, (Moonah: Mercury Walch, 1978), 81-89; Jennifer Helmsley, *Around the Country Circuits: Reminiscences of the Baptist Church family throughout “Tassie’s Top Half”*, (Launceston: Regal Press, 1996); Freda Jones and Tom Sullivan, *In the path of the Roaring Forties: Memories of King Island*, (Launceston: Regal Publications, 1989); R.D. Pretzman, *A Chronicle of Methodism in Van Diemen’s Land 1820-1840*, (Melbourne: The Aldersgate Press, 1970), 105, 109-111, 118

⁴² *Tasmanian Architect*, November 1963, 27

⁴³ Fulcher, *The Concept of Community Interest*, 2

⁴⁴ Morgan, *Land Settlement in Early Tasmania*, 47.

The water supply was taken from the creek into which mine tailings from Storys Creek flowed. The soil was rock and clay, and together with the hard water, there were very few gardens. There were no septic tanks and the toilet facilities were primitive. It was extremely hard.

There was a nursing sister on duty, but the nearest doctor was at Campbell Town. When our twins were prematurely born, we had to dash to Hobart. The drive down the unsealed mountain road was a hazardous trip. There was a sheer drop on one side, and in other places it was almost impossible for two vehicles to pass. During heavy rains the river overflowed the banks and the towns were usually cut off for a few days by flood waters.⁴⁵

Local township histories are replete with stories of interdependence in developing agricultural and other economies, kinship and community ties and the building of churches, schools and hospitals.⁴⁶ For one current Mayor, the idea of community was still strong, even though, in the municipality, populations were perceived to know each other less that they might have in the past:

I happen to believe the community, however you think of it, is actually really important. The community resilience and the way the people look after each other in communities be it in the middle of Kingston or down at Gordon or wherever it is, and that, that sort of tradition has kind of died, it used to be, everyone knew each other, they no longer do that, even in rural communities.⁴⁷

Attempts to merge local councils have been countered with claims that other districts had little in common, and in effect, good local government relied on commonality.

As the Warden of the Fingal municipality argued in 1929:

The amalgamation of the Fingal municipality with Campbell Town, Longford and other municipalities ... would not work well at all...this district has no community of interests with the neighbouring districts. It is very largely a mining area.⁴⁸

The pattern of settlement has not lessened the island's capacity for geographical isolation, within itself and to the rest of the world. Until more extensive systems of

⁴⁵ "Bob Gibb" in Jennifer Helmsley, *Around the Country Circuits: Reminiscences of the Baptist Church family throughout "Tassie's Top Half"*, (Launceston: Regal Press, 1996), 8

⁴⁶ See as some examples, L. S. Bethell, *The Valley of the Derwent*, (Hobart: Government Printer, 1960), *The Story of Port Dalrymple: Life and Work in Northern Tasmania*, (Hobart: Blubber Head Press, 1980), B. Davenport, *Glamorgan, Tasmania: the oldest rural municipality in Australia*, (Swansea: Glamorgan Council, 1988); T.R. Macleod, *A History of Green Ponds*, (Hobart: J.R. Walch & Sons Pty Ltd, 1962), James Fenton, *Bush Life in Tasmania Fifty Years Ago*, (London and Aylesbury: Hazell, Watson, Viney & Co, 1891, Facsimile edition, Launceston Mary Fisher Bookshop, undated reprint), Lois Nyman, *The West Tamar People: The Story of the Early Settlement and its well-established families*, (Launceston: Regal Publications, 1996) and the prolific amateur local histories of K.R. von Stieglitz (listed in the Bibliography)

⁴⁷ Interview: UF1

⁴⁸ "Municipal Commission at Fingal. Council's Arguments Against Amalgamation", *The Examiner*, 15 February 1929:8

roads were established, sailing boats and steamers were used to access the West and East coasts and areas of the Huon and Channel in the South and coastal townships in the north. Penal colonies were located at Macquarie Harbour on the West Coast and Port Arthur on the Tasman Peninsular because of their singular isolation, surrounding inhospitable terrain and dangerous seas. With mountains and tombolo peninsulas, deep forests and surrounding seas, despite its compact nature and the efforts of humans to impose order on the landscape, travelling around Tasmania is not easy or accessible. Two current Mayors commented that situation had not changed, reflecting how difficult it was to keep in touch with isolated communities within larger municipalities:

I, I started off when I was Mayor to have a meeting once every month in the different places and I'm going back to a couple of the remote areas, but to give you an example, our strengths are I think that, I'm at the Hamilton Show Saturday...going around speaking to the community and then have to leave at 3:15 to go up to Miena...it is very difficult when you go to these outlying areas, and I was so tired on the way up I had to ring the hotel and said, I don't care where the bed is, have you got a bed that I can say the night, you know, and because I was just so exhausted, because you're look at, oh, what did I do, three hundred k's nearly that day! It's a lot of k's, and the other day I did five hundred and ninety k's. And that's just, you know, I do between forty and forty five thousand k's a year. So you can, and our municipality of course covers eight thousand and ten square kilometres, so it's a big area.⁴⁹

...or me to go to Mathinna is an hour and a quarter from here (St Helens) so it's not a very time efficient municipality I guess is the way to describe it because, simply because it is so drawn out. Anson's Bay is forty minutes on a dirt road, Falmouth is twenty five minutes. It, it's different from city based municipalities which you can realistically drive from one end to the other, if there wasn't too much traffic type of thing, whereas this one is, is huge.⁵⁰

Access can be very difficult, even in current times, when roads and bridges are made impassable and telecommunications fail to reach into its valleys and gorges or past the mountain ranges. Even so, the physical constraints of the island have created a road system where often the way in is the same out. Today as in the past, the West Coast mining towns of Queenstown, Rosebery and Zeehan experience periods of isolation due to snow blocking access or icy road conditions. Even though Tasmania presents difficult challenges of connection, there is still a sense that the Mayor will continue to act as part of the glue that connects the social fabric of the community,

⁴⁹ Interview: RR4

⁵⁰ Interview: RR7

by being present at events in isolated communities in a municipality. As one current Mayor described getting around the municipality:

...when winter starts, you know, in the back of my car I've got to have a sleeping bag, I have my Ugg boots, I have a mohair blanket, I have an emergency pack and which is in the car when I leave in the back seat, as if I run the car off the road I often won't be able often to get to the boot, and so I've got to have all these things here and torches and everything and you know, they laugh at me when I leave a meeting because some of these things during the day are just in the boot and then when I'm travelling home out come all my emergency packs...⁵¹

Floods still easily cut off East Coast townships. Bushfire, and flooding from river systems in the north and east coasts, have caused serious disruption due to the effectively linear nature of the road system between population centres.

Today Tasmania has the veneer of connection with the rest of the world, with regular air travel services and shipping and a widespread good standard of roading. The introduction of waves of communications technology today means almost instant contact. Distances to markets may be lessened by air travel, but with its small population and landmass it cannot compete on mass manufacturing or mass agricultural products compared to other States in Australia, let alone in world markets. The landscape has shaped a Tasmanian sense of place and continues to do so. In the minds of two current Mayors there was a recognition that geography will still impact on the way they carry out their role:

...we are a relatively small in, sixty six thousand kilometres is not a large land tract but it is a huge land tract when you've got to get from A to B. And I think that geographical isolation we've had and still remains, our mountains are still where they were, the roads are still as they are, the, the rivers to cross and the things to be encountered...⁵²

It's not just the distance, it's the difficulty of travelling...here, when I take visitors and I go to Hobart and back to Bicheno, we go through four mountain pass almost you know, and I say we go through the first one you know, Break My Neck hill and all that, and then we go and the last one is Cherrytree Hill before Bicheno and people say "Jesus, it's a twist" and I say, we've got four of them, and so its, I think it's not so much, it's only 180k and you go to central New South Wales or central Queensland and you do 180k in an hour and a half. And even less if you don't stick to the speed limit! But here, and you can

⁵¹ Interview: RR4

⁵² Interview: UC1

see that the roads go alongside the Prosser, you know, which have been carved in the mountain, this would have been huge work, huge work!⁵³

Despite the geography and road network, there is an expectation that other tiers of elected leaders will be as familiar as current Mayors are with the conditions in isolated communities and have the same sense of duty in visiting:

Well for example David O'Byrne's the first Minister to actually come up to see our road network and when his Secretary booked, she gave us two hours. And I had to say to her, do you realise that two hours is just to get the Minister up to Bothwell and back again? They have no concept of the distances, so in actual fact it was, and having a driver as you'd be aware, you can get there a lot quicker, because you don't have to worry about parks, you can just drop people off, but they, most probably their return trip was about two hours, twenty minutes, and then it was another hour to get up to the road we wanted to go to have a look, and another hour, and then we were up there for fifteen to half an hour, so you're looking at four, you're looking at five hours and they won't put the time aside. And, I mean, the Federal Member that we had previously, the four, the last three years of his term, perhaps twice out to the Central Highlands, and he had an office in New Norfolk.⁵⁴

The social construction of how Tasmania is described and how people do or do not identify with place is a matter of competing beliefs at a point in time, taking into account factors such as intention (explorer, artist, farmer, convict, for example), education and socialisation, in how they react to it – Flinders, the explorer, described the same landscape as did an artist settler Glover, and the two could not be more different:

Flinders, 1801: We could not but remark the contrast between the shores of this inlet, covered with grass and wood down to the water's edge, and the rocky sterile banks observed in sailing up Port Jackson.⁵⁵

Glover, 1831: The general view of the distant coast was very interesting, and much of the Ulswater character. In the evening we approached near the entrance of the Tamar river leading to Launceston: and on February 18th entered the river with blazing sun and glowing landscape. Middling sized woods in prodigious abundance: but where the settlers have established their neat cotts, they look delicious and enviable, I never experienced a more delightful tour. The hills are tolerably high, and on very exposed slopes, which allows the contrasts of the different masses remarkably strong and striking, and very like the management of Gaspar Poussin's landscapes.⁵⁶

⁵³ Interview: RR3

⁵⁴ Interview: RR4

⁵⁵ M. Flinders, *A voyage to Terra Australis*, (1814 Facsimile edition Adelaide: South Australian Government Printer 1989), clii, , quoted in Max Staples, "Tasmania as Little England and the Social Construction of Landscape", *Rural Society*, 13, no. 3 (2003): 317-318

⁵⁶ J.R. Glover, Correspondence to Mary Bowles, State Library of New South Wales, AG 35, quoted in Staples, "Tasmania as Little England": 317

On arrival in the settlement of Hobart Town in 1829, Princep was (as were many to follow) overwhelmed by the views of mountain, forest and river:

The view from the harbour would make the most magnificent panorama in the world, were a painter to give the deep brown and purple tints to the foliage which clothes the hills; ...these dark woods form a rich background to the town as you view it from the water...are evergreens, or rather everbrowns, which in this clear atmosphere, up the wild glens of Mt Wellington, deepen into the richest purple in the distance.⁵⁷

A visitor in 1856 felt that there was:

...no land in the world that appears more lovely than this Island,...the stranger is at once captivated by the first glance of this – in very truth – most beautiful island.⁵⁸

Travelling over the island today, a British visitor would be struck by the very familiar naming of townships, rivers and various landscape features that contributes to a sense of English identity. Some argue this was a deliberate act of re-creation of Britain in Van Diemen's Land - settlers deliberately set about creating an "antipodean England".⁵⁹ While there might be some element of this, it ignores the fact that significant parts of the island were named in honour of those people who either formed part of the English government/public sector or were named for those in charge of the settlement of Van Diemen's Land. Flattery played a part as did the self-interested choices and experiences of explorers, surveyors and visiting dignitaries. Governor Macquarie's visit in 1811 included a tour northwards on the island "scattering largess in the form of place names of streets and sites for towns on his progress".⁶⁰ Passing a site on the north bank of the Elizabeth River, it was named Campbell Town "in honour of Mrs Macquarie's maiden name".⁶¹ In many cases the actual physical location bears little to no resemblance to its named counterpart in Britain.⁶²

The naming of places served to make the new landscape familiar and old and to celebrate either famous people and events or those who settled in it. Captain William

⁵⁷ Augustus and Elizabeth Princep, *The Journal of a Voyage from Calcutta to Van Diemen's Land*, (London 1833: Facsimile edition Hobart: Melanie Publications, 1981)

⁵⁸ H. Butler Stoney, *A Residence in Tasmania*, (London 1856: Facsimile edition Hobart: Melanie Publications, 1982)

⁵⁹ Morgan, *Land Settlement in Early Tasmania*, 44-47

⁶⁰ Robson, *A History of Tasmania*, Vol. 1, 65. See also Jetson, *The Roof of Tasmania*, 27

⁶¹ Campbell Town Municipality, *Campbell Town, Tasmania: History and Centenary of Municipal Government*, (Campbell Town: Campbell Town Municipal Council, 1966), 3

⁶² Staples, "Tasmania as Little England": 323

Langdon named his substantial estate “Montacute” after a Somersetshire village, simply because he was born there. Naming is a means of identifying with a person’s country of origin and this behaviour repeated itself everywhere humans travel.⁶³ Placenames such as Cambridge, Richmond, Launceston, Bothwell, Ouse, Westbury, Deloraine, Carrick, Perth, Ross and Hobart are shared among once-colonial nations. If Tasmania today has many English-derived place names, it reflects Earl Bathurst’s 1825 decree to Governor Brisbane, later taken up by Lt-Governor Arthur to survey Van Diemen’s Land into counties (forty miles square), hundreds (one hundred miles square) and parishes (twenty five miles square).⁶⁴ For this many names would be needed. In producing a map of the island, Van Diemen’s Land Surveyor-General Frankland drew up a list of townships and eleven counties, mostly named after British villages and important English personages to fill in the blanks as required.⁶⁵ (It is worth noting at this point that this civic division of the island did not result in the parish, hundred and county structure as a matter of civic identification. The physically rugged nature of the island and the thin and scattered population worked against using parishes of twenty five square miles as a unit for community identification as was done in England, even as late as 1962.)⁶⁶ How to name places on the island was a matter of debate:

In preference to naming Lakes and Rivers after individuals, we conceive that it would be better to suit the name to the situation, or in remembrance of places in Europe ... (Thus) instead of Sorell (an ex-Lt-Governor) call the Upper and Lower Lake ... Clydemere being as it is, the source of the Clyde.⁶⁷

Yet Tasmanian place names also reflect the struggle with the land, as well as some of the more colourful pioneers:

⁶³ A reader of a draft of this chapter commented: My grandfather named his property Newbury in the first decade of the twentieth century after where his wife was born in England. We’re descended from Elias Marriott, a convict who settled in Tyenna. His son Robert guided government surveyors into the South West and named various places – “Marriotts Falls” now located in the “Marriotts Falls State Reserve”, “Marriotts Lookout” and “Marriotts Hill”. All the names remain as locality names today. (*Pers. comm. B.W. Marriott, 2 March 2012.*)

⁶⁴ Dora Heard, “The Development of the Parish in Tasmania”, *Tasmanian Historical Research Association Papers and Proceedings*, 16, no. 1 (July 1968): 28

⁶⁵ “Place Names”, *The Companion to Tasmanian History*, ed. A. Alexander, (Hobart: Centre for Historical Studies, University of Tasmania, 2005), 278; Heard, “The Development of the Parish in Tasmania”: 28

⁶⁶ Heard, “The Development of the Parish in Tasmania: 32

⁶⁷ A. McKay, ed., *Journals of the Land Commissioners*, 47-48, quoted in Jetson, *The Roof of Tasmania*, 27

Horrible Hollow Hill, Mouldy Hole, Stinking Creek, Humbug Point, Haunted Bay, Bog-a-duck Speedway, Grannys Gut, Break-me-Neck Hill, Keep Down Hole, Monster Creek, Bust-me-Gall Hill, Hard Struggle Gully, Linger and Die Creek, Mount Mismanagement, Mount Horror and Gelignite Creek, ... Swearing Bobs Plains, Black Charlies Opening, Flash Charlies Marsh, Jack the Liars Gully, Laughing Jack Lagoon, Molly Yorks Nightcap, Mother Browns Bottom.⁶⁸

Aboriginal place names are also reflected in the landscape and especially in the later years of development. There is a move today to co-name Aboriginal with English, such as kunanyi/Mt Wellington, kanamaluka/River Tamar, yingina/Great Lake, reflecting a considered move towards reconciliation with past attempts to ignore the *pakana* connection and their long settlement of the island, by seeking to remove them through genocide, forced resettlement and a disruption of their social and cultural practices on such a scale that today those acts would be considered as war crimes.⁶⁹

Contributing more to the sense of place is the pattern of settlement, of building and reacting to the landscape in ways that were known to new arrivals. The architectural legacy of public and private Georgian style architecture and then the later Victorian, Gothic, Edwardian, Art Deco and Arts and Crafts movements – all created townscapes that spoke of the persistence of English influence. Generous land grants during the tenures of the Lt-Governors Davey, Sorell and Arthur, created a swathe of substantial titles stretching horizontally from the middle North West (Westbury, Evandale, Longford, Deloraine) and then down the Midlands to the rural outskirts of today's Brighton Municipality. On the East Coast one family was granted 2000 acres (809 hectares) in light of their willingness to live in an isolated area and the amount of capital they brought to the colony. The generous granting of land came with an expectation a rural economy would result sufficient to make the colony self-supporting. This reflected the practice at home where rural communities at the time of settlement were still producing not only all the necessary daily food but also other commodities that contributed to Britain's economic wealth.⁷⁰

⁶⁸ "Place Names", *The Companion to Tasmanian History*, 278

⁶⁹ See J.A. Taylor, *Tasmanian Place Names – The Aboriginal Connection*, (Tasmania: John A. Taylor, 1995). See also Tasmania, Department of Premier and Cabinet 2012, Aboriginal and Dual Naming Policy at http://www.dpac.tas.gov.au/divisions/csr/oa/aboriginal_and_dual_naming_policy Accessed 12 March 2016

⁷⁰ Frank Bolt, *Vanishing Tasmania: a photographic essay*, (Kingston: Waratah Publications, 1992), 13

Others came as part of a religious congregation with hopes of raising the moral tone as well as making a new life for their tradesmen members. Still others were also willing to bring their own livestock – those with merinos were especially favoured.⁷¹ The growing UK demand for fine wool by the 1820s shifted farming from agricultural to pastoral pursuits requiring grants and large leases for this activity. Those who came early enough to access free land grants and leases that allowed extensive grazing of sheep and cattle in the highland grasslands, tended by convict shepherds, settled in to make their fortune.

For much of the early to mid-nineteenth century aggregation of land grants as well as large grants created a group of land owning pastoralists who were able to pursue a lifetime of wealth accumulation founded on the relatively cheap plentiful convict labour force and the high price of wool. Wealth was expressed as building programs for towns and on rural estates, recreating a seventeenth-eighteenth rural England of which a visitor commented as being “more English than anything I’ve seen”. The “flock masters of Van Diemen’s Land” built great houses, gardens and parks and equipped them in such style, “that really it does not seem as if we were in this country”.⁷²

By 1846 Louisa Meredith was able to travel through populous settlements and towns between Hobart and Launceston observing:

(A)ll containing good churches and inns, and the greater number displaying shops of various kinds, and many substantial houses; whilst nearly the whole length of road traverses inclosed[sic] and cultivated land, and constantly leads us past comfortable country houses, farms and cottages.⁷³

The pastoral and farming industries were “encouraged by political conditions which made large holdings easy to acquire”.⁷⁴ Free land grants from 1804 to 1822 totalled around 536 square kilometres. The rate increased substantially between 1823 and 1831 (around 7,686 square kilometres).⁷⁵ Prior to the introduction of new regulations to control the sale of Crown lands, Lt-Governor Arthur granted nearly 10,117 square kilometres of land to new and existing settlers. In observing land

⁷¹ Robson, *A History of Tasmania*. Vol. 1, 116

⁷² Philip. L Brown, ed., *Clyde Company Papers*, (London: Oxford University Press, 1941), 31-33. See also Bennett and Warner, *Country Houses of Tasmania*; Rigney, *A Midlands Odyssey*; Sharland, *Stones of a Century*

⁷³ Louisa Meredith, *My Home in Tasmania*, (New York: Bunce, 1853), 331

⁷⁴ Hartwell, *The Economic Development of Van Diemen’s Land*, 122

⁷⁵ Morgan, *Land Settlement in Early Tasmania*, 22

ownership, it was so concentrated that by 1875 almost half of the alienated land in Tasmania was owned by the Van Diemen's Land Company in the northwest and one hundred of the largest estates.

In the northern part of the island, five per cent of the adult male population owned the best productive land in Evandale, Longford and Deloraine and around ten percent in Westbury.⁷⁶ Calculated from the municipal assessment rolls published in the *Hobart Town Gazette*, Reynolds estimated that families acquired ninety-two of those 100 largest estates before 1832.⁷⁷ One family, for example, possessed 35 per cent of all freehold land in what was once the Green Ponds district. They were not alone, with seventeen family groups owning about forty-five of the largest 100 properties and ten family groups owning around 20 percent of the sheep flock. In the Midlands area twelve per cent of adult males were owners or occupiers of pastoral or agricultural land compared to seventy one per cent being the labourers or domestic servants.⁷⁸

Tasmania was developing a reputation for Englishness. Returning "home", Charles Du Cane, ex-Governor (1869-1874) described when lecturing in England how closely Tasmania resembled Britain:

In the long settled districts of Tasmania we come upon the life over again of an English agricultural and pastoral country. We come upon country squires with English-looking residences with their gardens and grounds laid out with English trees and flowers around them. We are in an atmosphere once more of Members of Parliament, unpaid magistrates, landlords, tenant farmers, stage coaches, municipal institutions, country cricket clubs; and last, not least, Agricultural Associations, with their show yards, luncheons, dinners and speeches.⁷⁹

The *Official Handbook of Tasmania* (1883) described society in Tasmania as "very similar to that of England, it is divided into classes, each more or less exclusive".⁸⁰ The rural pursuits of England were ever popular with "some at least, who, viewing their countryside, had visions, presently realised of foxhounds and the glories of

⁷⁶ Breen, *Contested Places*, 34

⁷⁷ Reynolds, "'Men of Substance and Deservedly Good Repute'": 61

⁷⁸ Robson, *A History of Tasmania*, Vol. 2, 128-129

⁷⁹ Sir Charles Du Cane, *Tasmania Past and Present*, (lecture presented at Colchester, UK, 1877), 18

⁸⁰ Thomas C. Just, *The Official Handbook of Tasmania*, (Launceston Examiner Office, 1883), 107

hunting, with kangaroo as game”.⁸¹ The resilience of English customs such as hunting with hounds in the Midlands was recorded as late as 1951.⁸² The eventual successful importation of exotic salmon and trout ensured enthusiastic anglers did not have to travel “back home” to enjoy the sport. The milder weather favoured English patterns of land use and plant cultivation, aided by the introduction of many species of flora and fauna, and these found great favour in parks and gardens. Many of these later became pests but at the time were a sentimental addition to early settlers’ existence. One settler admitted to being “a party to the introduction of blackberries into Devon” having a weakness for them as a child in England and now described himself as “one of the miscreants who inflicted the blackberry plague on the district”.⁸³

Is it really another England?

Did this mean Tasmania’s sense of place and identity was as a “Little England” or was it simply an idea repeated as a form of lazy historical shorthand? Up until further waves of immigration post World War II from war-torn Europe, the majority of the island’s population was convict or descended from the same and created a composite from the mixture of English, Irish, Scots and Welsh peoples. Convict or free, they were mostly British to start with, and even with colonial independence and well after Federation, the majority of the population identified with Britain. British ideas and institutions were adopted almost without question (parliament, elections, local government institutions, religion, policies such as health, education, town planning, etc). British festivals continued to be practiced in association with rural events (ploughing contests, hop feasts on the once large estates and the round of agricultural societies’ shows, some of which continue today). That some of these types of events are still in existence is not however an argument for continued cultural identification with England. Indeed, the inauguration of the first Agricultural Society show in 1822 was not for harvest celebration:

⁸¹ R.W. Giblin, *The Early History of Tasmania: The Penal Settlement Era, 1804-1828*: Collins, Sorell and Arthur, ed. J.D.A. Collier, Vol. 2, (Melbourne: Melbourne University Press, 1939), 298.

⁸² *The Mercury* August 13 1907:2. See also Campbell Town Municipality, *Campbell Town, Tasmania*, 250-316, which details the history of the Midlands Hunt Club lasting until 1951.

⁸³ Fenton, *Bush Life in Tasmania*, 118-119

It was a measure of the state of the colony and the expectations of the new immigrants that the primary object of the society was the protection of stock and prevention of crime, every member pledging himself not to exchange rum or spirits of any kind for sheep or other stock.⁸⁴

With the mechanisation of ploughing and harvesting and the decline in demand of various agricultural products, if such events occur today it is more as a cultural curiosity or an attempt to revive a community's tourism potential when it is not specifically related to primary industry specialist commerce, such as the Campbell Town Agricultural Society Show's role in wool production or Agfest.⁸⁵

At one time British Governors, administrators, professionals, engineers, public servants, the appointment of bishops – all were drawn from Britain “speaking correctly and not through the colonial nose”. Today it is different with people drawn from around the world and locally to fill such positions based on professional capacity, not British citizenship.

Newspapers once followed events “at home”, and during the Crimean and World Wars, Tasmanians donated very large sums of money and sent over troops with fervent displays of patriotism.⁸⁶ Imperial sentiment was fostered by interlocking economic independence and cultural unity with Britain.⁸⁷ In 1899 school children were to be instructed:

Tasmania and Australia were being united, as one people and all together associated with the Mother Country, thus displaying the grand unity of the British Empire ... all evidence of the unswerving enthusiasm and loyalty of the people of Tasmania and her sister colonies to the great Empire to which we belong and to the throne and person of her Most Gracious Sovereign the Queen.⁸⁸

This too, since Federation, has been slowly changing. Patriotic sentiment for Britain as “home country” has markedly declined with shifts to global markets and England is no longer the prime market for Tasmanian produce. If Tasmania's population was largely drawn from a rural England and the pace of development was slowed by economic booms and busts plus two World Wars and a major economic depression,

⁸⁴ Robson, *A History of Tasmania*. Vol. 1, 181-182

⁸⁵ D. Rae, C. Richards and G. Richardson, *Bullock Drivers in Tasmania's far North East*, (Tasmania: self-published, 2007)

⁸⁶ Marilyn Lake, *A Divided Society: Tasmania during World War I*, (Carlton: Melbourne University Press, 1975), p. 11

⁸⁷ Robson, *A Short History of Tasmania*, 33

⁸⁸ Minister for Education, 4 November 1899 quoted in S.G. Alomes, "Island, Nation and Empire: Collective Identification in Hobart during the Boer War", *Tasmanian Historical Research Association Papers and Proceedings*, 23, no. 1 (March 1976): 12

then it is to be acknowledged the pace of outward global interaction since the late 1980s onwards has significantly changed Tasmanian society. Loyalty to monarchy in Tasmania is stronger than in other States with Tasmania being second only to Queensland in favour of remaining part of the Commonwealth during the 1999 Federal Referendum. During Queen Elizabeth the Second's visit in 2000, tens of thousands of Tasmanians lined the streets to see her, as they had done nearly half a century earlier on her first visit to the State in 1954.⁸⁹ Yet this is not sufficient as an argument for Tasmania as a little England today, even if the pace of change is slower than other States in Australia.

Holding to a sense of community and identity

Holding onto a sense of community and identity has been a constant in resistance to local government reform. There is a strong argument that the strength of these ideas and beliefs were formed in the first fifty years of the colony, both in the genocides of the indigenous population and the high proportion of convicts in the population. The hunter-gatherer population of Aborigines (*pakana*) were widely spread with tribal groupings that covered all but the most mountainous of its landmass. They had opened up forested places with regular seasonal burning to create grasslands supporting game for hunting.⁹⁰ From 1803 with the influx of British military, convicts and free settlers, a steady process of force resulted in the island being taken through fencing, genocide, exclusion and exile, from the *pakana*. Away from the constraints of central authority the *pakana* were mercilessly hunted.⁹¹ The resulting guerrilla war against the settlers and attempts to retain their culture aided Lt-Governor Arthur in maintaining a strong central control of colonial life, in itself a factor in the colonist demands for representative institutions.⁹² Convicts formed an essential part of developing the colony as workers and servants. They served as a tool of patronage and a powerful means of enforcing policy on the free settlers by the

⁸⁹ Alice Claridge, "Tassie's Queen for 60 years", *The Mercury*, 2 June 2012. Included in the crowds, the researcher, to observe a curiosity than through any display of loyalty.

⁹⁰ For a definitive history of events pre and post invasion, see Murray Johnson and Ian McFarlane, *Van Diemen's Land: an Aboriginal history*, (Sydney: University of New Wales Press Ltd, 2015)

⁹¹ As first-hand accounts see Henry Melville, *The History of the Island of Van Diemen's Land from the Year 1824 to 1835 Inclusive*, (London: Smith & Elder, 1835 Facsimile edition Adelaide: Libraries Board of South Australia, 1967), 24-25, 61-62 and J.F. Irvine, "Memories of a Pioneer," in *Edward Markham's Van Diemen's Land Journal, 1833 with six historical essays*, ed. K.R. von Stieglitz, unpaginated, (Launceston: The Telegraph Printery Pty Ltd, 1952)

⁹² Melville, *The History of the Island of Van Diemen's Land*, 10, 64, 186

Lt-Governor.⁹³ Once free, convicts either remained in the colony, creating a life of respectability and prosperity, putting their past behind them, or left to escape the convict stigma and lived elsewhere. Without this labour there would have been little progress in clearing land, building houses and growing and hunting food, and in developing this “ordinary British community”.⁹⁴ It was largely their labour and skills that created a number of fine Georgian style residences, significant public buildings, roads and bridges, the majority of which survive to this time and were essential to the prosperity of the large landholders.⁹⁵ The move to shift away from identity as Van Diemen’s Land to Tasmania represented a concerted effort to ignore both the injustices and “taint” of the past and to have “all the reminiscences of a painful nature connected with the early history of the country...now fully abolished.”⁹⁶ The desire to create a new idea of self and community away from the convict past was so strong as denials of its existence in various quarters of the population lasted into the late twentieth century. A notable historian commented that mention of convict origins “rather upset some people by documenting origins which are unacceptable, in the face of overwhelming evidence.”⁹⁷ In this sense, local government afforded opportunities for successful sons of convicts to become men of standing in their communities, and thus be “washed clean” of the “yellow jacket” by the respectability of owning property and entering into public office.⁹⁸ Municipal achievement reflected on the creation of the new sense of place, of moving on from what was not to be admitted to, and thus provides one useful explanation for

⁹³ L. Evans and P. Nicholls, *Convicts and Colonial Society 1788-1853*, (North Melbourne: Cassell Australia Limited, 1976), 8

⁹⁴ For the most recent historical accounts and descriptions of convict demographics, see Alison Alexander, *Tasmania’s Convicts. How Felons Built A Free Society*, (Crows Nest: Allen & Unwin, 2010) and James Boyce, *Van Diemen’s Land*, (Melbourne: Black Inc., 2008). Also James F.H. Moore, *The Convicts of Van Diemen’s Land (1840-1853)*, (Hobart: Cat & Fiddle Press, 1976)

⁹⁵ See for example, Leslie Greener and Norman Laird, *Ross Bridge and the sculpture of Daniel Herbert*, (Hobart: Fullers Bookshop [Publishing Division], 1971); Smith, Roy, *Early Tasmanian Bridges*, (Launceston: Foot & Playsted, 1969) and G. Hawley Stancombe, *Highway in Van Diemen’s Land*, 3rd ed., (Glendessary: National Trust of Australia [Tasmania], 1974, 36-38

⁹⁶ *Hobart Town Courier*, 19/1/1856 quoted in Newman, *Becoming Tasmania*. See also Alexander, *Tasmania’s Convicts*, 134-154, 163-168, 243; Alomes, “Island, Nation and Empire”: 10; Dan Huon, “By Moral Means Only: The Origins of the Launceston Anti-Transportation Leagues 1847-1849”, *Journal of the Royal Australian Historical Society*, 44, no. 2 (June 1992): 92-111

⁹⁷ Lloyd Robson, “Damnosa Haereditas? Tasmania’s British Inheritance in the Later Nineteenth Century”, in *The Flow of Culture: Tasmanian Studies*, ed. Michael Roe, 95 (Canberra: Australian Academy of the Humanities, 1988)

⁹⁸ Peter Bolger, *Hobart Town*, (Canberra: Australian National University), p. 91. See also Petrow and Alexander, *Growing With Strength*, 16-17; Alexander, *Tasmania’s Convicts*, 151-152.

resistance to change. Today the negative sensitivity has significantly diminished. Having a convict ancestry is a point of interest and identity as a Tasmanian, and as a point of pride for Australians overseas.⁹⁹

Reforms also meant change to municipal boundaries when amalgamations were suggested on a number of occasions and resisted for many years through the argument of loss of identity and “community of interest”. Yet it was acknowledged that boundaries were drawn up to match the conditions and the potential for development that was identified at the times those municipal boundaries were first drawn up. There has been a considerable change in life in Tasmania since the first successful Tasmanian reform period of 1906-1907 when journey times for horse and bullock drawn freight and passenger needs was a “main determinant of the settlement pattern”.¹⁰⁰ By 1991, “community of interest” while claimed as an important facet of local government in Tasmania, was not seen as immutable. Economic and societal change meant that there were no longer single communities of interest within municipalities: municipalities contained multiple communities, localities and networks, and even these would shift through further changes and innovation in employment, retail, recreation and technology. Pressures for review leading to the second successful reforms in 1993 in Tasmania came from many sources, including the fact that the relative importance of many towns had changed with the location of highway by-passes and the centralisation of specialist transport, retail, business and government services in larger strategic centres.¹⁰¹ The resistance to changing boundaries was mixed. Boundaries were “not sacred” yet both “publicly and privately, (many agreed the) need for change... ‘just not in our case’”.¹⁰² Municipal boundary change eventually successfully occurred and the reasons for the success have been noted in an earlier chapter.

Do we still hold onto identity and community?

Further boundary changes or municipal re-organisations of roles and responsibilities may well succeed just as easily, as the nature of Tasmania’s populations have changed significantly also. The ideas and beliefs of community and identity have

⁹⁹ Alexander, *Tasmania’s Convicts*, 261

¹⁰⁰ Tasmania, Local Government Advisory Board, *Inquiry into the Modernisation of Local Government: Alternative Structures Discussion Paper*, March 1991, p. 13

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, p. 8

been turned around in recent years, particularly in rural areas and reflected in the interviews with current Mayors. One rural Mayor noted the demographic changes in population and therefore a need to accommodate these changes with new services at the local level. The Mayor also noted changes in perspective of what identity meant to the community with new ideas making their way into the local discourse. The institution of local government becomes the means of facilitating new identity as a response to groups of people gathering together with shared beliefs and values in how they want their chosen community to be shaped:

We've had a lot of people move here over the years from interstate and they haven't got the family support with them to look after their children so when they go to work now they've got to have somewhere where their children can go to be, for childcare, whereas when I was growing up here, they went to Nan and Pop's or aunties and uncles and everything so we had support for people who wanting to work, to have their childcare so they could have somewhere where their kids could go and stay.¹⁰³

Where you once would have knew everybody when you walked up and down the street in your home town, now it's a completely different scenario and a lot of these people are bringing a lot of different...experience, and etc with them and a lot of...I suppose you'd say...where they've been and what they've done and what they've seen, they're bringing all that to us, you know...¹⁰⁴

We run seniors programs, things like this, because we have got an ageing community down here and a lot of retirees coming to the area. Those are the sort of things they're asking about now, you know, what can you do for the elderly in the area, and I think it's a good way for the people that's moving here, to get to know people. Because they come over here, they might only have one or two friends and having these different functions that you have, they get to know and meet a lot of other people so they can integrate into the community a lot easier¹⁰⁵

Another current Mayor was observing the shift in demographics in local areas that were a complete turn-around from why localities were originally settled.

Community identity is less based on locality with shifts in societal factors, such as groupings of elderly, retired people or a resurgence in families settling for amenity rather than work reasons in an area. The access to transport away from horse and buggy has diminished distance in people's minds and led to the gradual decline of smaller townships. Identity with place shifts accordingly:

I think for a while that it was work-related communities, it was employment-related communities. We've actually got some communities down the North

¹⁰³ Interview: RR1

¹⁰⁴ Interview: RR1

¹⁰⁵ Interview: RR1

West Coast that are retirement-related communities. Port Sorell, for example, is a good example in our area. When my parents moved there in 1972...four hundred and thirty permanent residents; probably three thousand residents over the summer period, because it was a holiday vacation for people in Devonport who used to come out and put their caravan on the foreshore. But now, in that area, three and a half thousand people live in the Port Sorell greater area, so within thirty years, there has been a huge...huge percentage increase in the area. And a lot of those people are retired people. It's a warm beautiful estuary, there's now a surf club, there's now a school that has two hundred and fifty kids and that creates issues because the other two feeder schools, Wesley Vale and Moriarty, so we had to go through the , no, we need a school at Port Sorell for that area to grow. The end result is that Moriarty has closed after one hundred and eighty years of service to that community so it's not all wins because we had three small rural schools that fifty years ago were servicing their horse and cart mentality, or a, probably horse and cart and providing little schools. So we had Sassafra, Moriarty and Wesley Vale all within ten kilometres of each other, basically, and now because now Port Sorell takes two hundred and fifty, that just changes. It does change. And so you're getting, and I think that you'll find on the North West Coast, and this comes through technology, is that you're getting people who fly in, fly out from Melbourne, who may be based here, run their, running their Melbourne enterprise, or Sydney enterprise, from Devonport or Latrobe or somewhere on the North West Coast, because they only have to go every two days to Sydney for their work, they can do the other three days of work at home when they want to, so that is, that is a different nature of it.¹⁰⁶

Localism as a tradition of identity, of loyalty to a location is slowly shifting, especially once economic benefits can be used as a reason for change:

And I am now trying and reasonably successful, not as much as I would like, but good enough, that the people of Break-O-Day talk to the people of Glamorgan-Spring Bay, oo-la-la! I mean, you know, I started with Spring Bay going into Glamorgan and Break-O-Day was itself an amalgamation with other Councils, with Fingal and all those, yes, and now all those people are starting to talk to one another and to sell the region to the visitors as a whole and I think, I've done that! That is cool!¹⁰⁷

How identity is perceived has changed, yet reform processes will still have to deal with the persistent linkage of identity with place and community. There is a plea for a return to the almost tribal aspect of community from one current Mayor. The values of community as knowing others in the group with intimate connections created through local discussions on the little daily concerns are perceived as having more value than those created through the economic efficiencies of larger municipal structures:

¹⁰⁶ Interview: RR5

¹⁰⁷ Interview: RR3

If you go from a little Council where the Council's provided the scones, milk and bickies after a forum because you've all been there to talk about whether we're going to put a cover over the pool or not, that's what you lose, that's what you lose if you do that. So one of the threats I think is the, is the push we have to economic efficiencies which unfortunately sometimes detract from our social, our social positive aspects of being a community. I don't want to live in a big city where I don't know anybody, or my neighbours or whatever. I could, but that's not part of my upbringing... I think, local in that the concept of local should always have some sort of attachment to an area. I think our communities, or the people within our communities, obviously identify with our own smaller region, but the collective is still important, and whether that's an amalgamation of Councils, I believe that the identity is important.¹⁰⁸

In the interviews undertaken the most eloquent expression of understanding the importance of keeping a sense of community, of having a connection with the people in it, was this comment:

We live and breathe what our communities feel. Understanding your community is very important to me at a local government level, if you don't understand, you live in the community so you are actually in touch on a daily basis with either the good or the bad and it is very important to be able to have a form of government that reflects that.¹⁰⁹

In the interviews there was strong persistence in the belief of the value of community and identity, even in the suburbs, and the need to have this taken into account when making policy decisions:

We had, on Sunday we had an event here called "love living locally" run predominantly by one of our staff, community service staff together with Lions. Probably gets us more brownie points than anything we do throughout the year. The locals absolutely love it, there's sixty booths. It's a bit like a local fair, local market. Food and entertainment and should local government be doing that? Question Mark. You know what I mean. It's like, is this what we should be doing? My answer to that is, yes it is, the, because I happen to believe the community, however you think of it, is actually really important.¹¹⁰

I'm talking about those people who simply are pushing for amalgamation based on a perceived, in brackets, financial saving. That in itself is not true but how you can just remove tradition, ownership, values of where you went to or whatever before of a local community, change, trying to change your community over generations, it's got to be some happy medium there that you can give some very strong weighting and I never see that weighting become involved in the amalgamation debate.¹¹¹

¹⁰⁸ Interview: RR5

¹⁰⁹ Interview: RR6

¹¹⁰ Interview: UF1

¹¹¹ Interview: UF3

What was really interesting in the interviews was the persistence of belief in community and the importance to maintain connection with it in creating the identity of a locality. Use of the term “branding” is a current word for a conscious action of identifying why a particular locality is different, why a community is different from another. Why do this if community and identity are weak values? Indeed, the continued actions of speaking and consulting by Mayors with their communities, as part of local government practice, can only be understood as reflecting what is important to those communities:

Yes, I, I see obviously creating a sense of place is very important for branding the area in which we are so we need to know for (this city), how we promote it, what identity do we want it to have, so that’s obviously a role that Council has to play a very important part and we need to do that obviously with, engaging with our community, working together with our community. A number of ways you can do that, and that’s I don’t know we need to go into those but, addressing the future needs, wondering what people’s dreams and aspirations are for our area.¹¹²

The avenues where consultation occurs and the willingness of Council to go there and receive and talk to the community and saying, okay, what’s your views? A great instance of that was just had Living City whereas a two hundred and fifty thou, two hundred and fifty million dollar redevelopment of our CBD and one of the first things we did, we went out to community saying this is the principal plan, do you agree with this and then we took all their, a views on board. We had over a thousand respondents to a survey which is a, a very, very strong reply so I think, having that communication as a strength in Council to be able to reflect what we need to be able to do and the areas we need to go into.¹¹³

The essence of how much the idea of community and sense of place still resonates with identity is summed up by one comment:

I think, local in that the concept of local should always have some sort of attachment to an area. I think our communities, or the people within our communities, obviously identify with our own smaller region, but the collective is still important, and whether that’s an amalgamation of Councils, I believe that the identity is important.¹¹⁴

Conclusions

People bring to a new place a sense of what home should look like and make the new as familiar as they need. The English settlers named the island’s landscape using

¹¹² Interview: UR3

¹¹³ Interview: UR2

¹¹⁴ Interview: RR6

many English location names that bore no resemblance to what was “at home”. Yet they also named places that reflected their interaction with the land. It is easy to focus on the familiar Anglo-Saxon heritage as a claim for a “Little England” yet today the landscape shares new names and people’s relationship to it has shifted from one of total exploitation. The idea of a sense of place remains; it has simply shifted to reflect current times and remains as a strong element in the ideas of a Tasmanian localist tradition. A sense of place is where people now live in the landscape.

The pattern of settlement was reflected by the convict-free settler society. Yet it was the geography that ultimately influenced patterns of settlement. The large grassy areas in the middle right of the State reflect an English pattern of landed estate with townships set up to service them, initially as convict probation stations and then as communities in their own right. The coastal areas of the North East, North West, East and West Coasts and in the South influenced differing types of agriculture and pastoral practices, as well as reflecting a pattern of isolated township settlement. The geography of the island has been a strong contributor to ideas of community and sense of place, as the isolation is still affected by the road network and weather.

Past arguments against reform of not meeting “community of interest” demands have shifted with the now more complex activities of towns and cities and movements of populations. Sense of place has also become a way to brand a region, rather than just a town or location. A place is no longer known for a single “community of interest” reflecting the complexity of an island economy that is, although agricultural but even so, more niche, shifted to a strong service economy. Sense of place and community is still very persistent today in local government practices, even with improved communications and transport links. The shift towards regional identities in local government practice is as a consequence of Federal government regional funding policies.

Section 2: Localism as permissive authority

Introduction

In this section the evidence for persistence in the practice of permissive authority is considered. In England the local government practice was to set up various institutions to suit localities. Is there evidence for the same in Tasmania and if yes, how persistent is this aspect of localism?

Localism as permissive authority

The practice of permissive authority in local government in England was disappearing by the time it fully bloomed in Tasmanian colonial local government in the brief period between 1858 and 1906. The circumstances of settlement meant that Tasmania as a military convict colony was marked by strong central control through the office of the Lt-Governor in reaction to problems dealing with convicts and bushrangers. Devolution of authority was always contentious and difficult until colonial Statehood was achieved.

Problems of bushranging (preying on free settlers and military establishments for food and goods) resulted in difficult relationships between the military government and free settlers and the convict population. At times a number of settlers were unable to access their farms and suffered stock and property losses. Free settlers repeatedly agitated for their British rights.¹¹⁵ They opposed taxation without parliamentary representation but had to wait until 1851 before any form of elected representation.¹¹⁶ Taking on local responsibility was resisted in the absence of a Parliament. In the minds of the free settlers who had risked their capital and property to settle the island, the financial problems of the colony were as a consequence of withdrawal of funds from England.

The matter of paying quit rents, for example, was fought through the existing judicial system more as a political means of protecting their economic interests against the policies of Arthur and his successors¹¹⁷. During Lt-Governor Eardley-Wilmot's term, attempts to raise taxes through a Lighting and Paving Bill became a political

¹¹⁵ Melville, *The History of the Island of Van Diemen's Land*, 10, 64

¹¹⁶ W.A. Townsley, *The Struggle for Self-Government in Tasmania 1842-1856*, 2nd ed., (Hobart: Tasmanian Government Printer, 1977), 96

¹¹⁷ Petrow, "Discontent and Habits of Evasion": 254-256

standoff with six members of the Legislative Council leaving proceedings inquorate, hampering the legislative administration of the colony, but supported by their local communities in their actions. Despite the benefits of convict labour, free settlers demanded the Home Government should foot the entire bill for policing and gaols:

If the Imperial Parliament chose to make philosophic experiments in penal science, let them be at their expense...Only give the colony the sum abstracted from it for Imperial purposes, and no taxes would be necessary.¹¹⁸

Early legislation to create municipal bodies for Hobart and Launceston was prescriptive, following Lt-Governor Denison's belief that they deal with "purely local matters", rather than permissive.¹¹⁹ In Hobart and Launceston, in perhaps the first inkling of the independent potential of local government, the local government elections of 1853 were interlinked with the matter of ending transportation and so challenging central authority to limit its scope.¹²⁰

Those of property and respectability in the new colonial State viewed local institutions as having the capacity to endow the island with a cheaper, decentralised form of government in complete contrast to the autocratic period of the Lt-Governors, able to take on whatever roles were needed. Post transportation, permissive authority in local government was represented in the *Rural Municipalities Act 1858*, giving wide powers to councils further than any colony in Australia at that time, although still subsidised by central Parliament.¹²¹

As in England prior to the second period of reform the Parliament was divided and weak. As new problems arose, implementation was devolved to municipalities. With various amendments and new legislation, the number of local institutions grew to service both local problems and those that affected a number of municipalities. In this situation, the responsibilities taken on by municipalities were subsidised by central Parliament. The resultant "chaotic state" caused by the multiplicity of local

¹¹⁸ Proceedings of the Van Diemen's Land Legislative Council, 15 August 1845, *Hobart Town Courier and Government Gazette*, 20 August, 1845

¹¹⁹ J.M. Bennett, *Reluctant Democrat: Sir William Denison in Australia 1847-1861*, (Leichhardt: The Federation Press, 2011), p. 146; Petrow and Alexander, *Growing With Strength*, 15

¹²⁰ Reynolds, *Launceston: History of an Australian City*, 97-98; Petrow and Alexander, *Growing With Strength*, 16-17

¹²¹ von Stieglitz, *A History of Local Government in Tasmania*, 59, 61

statutory bodies has already been well researched as was the resistance to change leading up to the prescriptive 1906 Act (see Chapter 2: Section 1, 2).¹²²

The difficulty with prescriptive powers was the lack of flexibility to cope with changing circumstances, leading to repeated efforts on the part of the State government to either institute reforms or transfer responsibilities to a State government instrumentality. As a tier of government relying on the State for its head of powers, local government was largely invisible until it needed to be portrayed as an encumbrance on the central government budget. Its usefulness in undertaking services the central government either would not or was unable to pay for becomes a negative virtue to be used in reform pushes.¹²³

The converse also applies given the problems of population distribution in Tasmania, which is an issue well recognised by Mayors today in managing the provision of services:

Yes, once you start losing that, you need a critical mass within a community, in, in you know, the greater the mass the better and more services you can provide and conversely the less mass the less services and the quality of services that you can provide. So it, it has a, an effect.¹²⁴

Because I think, I don't agree with amalgamation, because the Council areas are so different. I, I don't see, and I'm not one of their members, but I don't see such a wide difference between Glenorchy, Clarence, Hobart and those areas being joined as one if that's what they want to go, but in the rural areas it's, we would end up with what the proposal was, the previous proposal, so throughout we'd have twenty per, seventy percent or something, twenty percent of the landmass with one percent of the population. Well, you don't have to be Einstein to know that's not going to work.¹²⁵

Ideas of local solutions to local problems faltered in the face of the costs of roading, water supply and town planning, requiring funding from both State and Commonwealth, simply because of the nature of the island's geomorphology. Functional overlap between State government departments and local councils

¹²² Rootes, *Local Government Reform in Tasmania 1906-1939 and A Chaotic State of Affairs*, "Overstrained and creaking at every joint: local government in rural Tasmania 1945-1969": 154-169, "Striking at the very foundation of local government": 21-26

¹²³ For example, see F.C. Green, *A Century of Responsible Government 1856-1956*, (Hobart: L.G. Shea, Government Printer, 1956); Townsley, *The Struggle for Self-Government in*; Robson, *A History of Tasmania*, 2 vols; W.A. Townsley, *Tasmania*, 2 vols; Michael Roe, *The State of Tasmania: Identity at Federation Time*, (Sandy Bay: Tasmanian Historical Research Association, Incorporated, 2001)

¹²⁴ Interview: RR2

¹²⁵ Interview: RR4

became a fact of life post World War II.¹²⁶ By 1982 the Minister for Local Government was advising Councils that the Municipal Association of Tasmania was considered the best conduit for policy development:

Mr Braid indicated that while he would be prepared to meet and discuss matters with individual Councils, he would look to the M.A.T. as the spokesbody for Local Government and would suggest to individual Councils that they obtain the support of the Association on matters of general applications.¹²⁷

The current 1993 Act returns local government not back to a permissive authority but to one of general competence with a wider, less defined group of powers for municipalities. Again, the matter of devolution of power is negotiable with increasingly statewide solution being sought. The difficulty is where the boundaries lie between State and local responsibilities. The functions and powers of councils in Section 20 of the Act are as wide or as narrow as they can be interpreted:

- (1) In addition to any functions of a council in this or any other Act, a council has the following functions:
 - (a) to provide for the health, safety and welfare of the community;
 - (b) to represent and promote the interests of the community;
 - (c) to provide for the peace, order and good government of the municipal area.
- (2) In performing its functions, a council is to consult, involve and be accountable to the community.
- (3) A council may do anything necessary or convenient to perform its functions either within or outside its municipal area.¹²⁸

With the driver of wanting to maintain identity and community, since 1993 and under threat of further amalgamation attempts, the innovation of resource sharing between councils heralded a significant shift in the idea of permissive authority as being something to be exercised within local municipal borders. General competence powers have an element of permissiveness in their interpretation of local circumstances, allowing innovation to flourish. Yet Mayors have observed there appears to be a curious reluctance at the State level to acknowledge the capacity for local government innovation in government, such as in the areas of shared services:

What I think, once again, in that sense, the collaboration between our major drivers, our two major cities, could be a big advantage for small councils or regional councils. I believe the expertise, ability of new staff, sorry, the ability and diversity of staff employed should be employed across borders rather than

¹²⁶ Wettenhall, *A Guide to Tasmanian Government Administration*

¹²⁷ AOT, CB52/7/2 Executive Committee Agenda Paper, *Municipal Association of Tasmania*, 23 June 1982, p. 2

¹²⁸ Tasmania, Parliament, *Local Government Act 1993* (No. 95 of 1993)

going to consultants and so forth. I think that could be a major win for communities because if they work in and understand local government they should be able to deliver something better than someone who doesn't work within the local government system, and that's giving quality service to our community.¹²⁹

The constant proposals from the State use the institutional remedy of amalgamation, or stripping away of functions to non-elected bodies. General competence powers are challenged when external boards are used to replace Councils as final decision makers for service delivery to their communities:¹³⁰

...the issue of water is a classic example of where we used to look after water, where the State government saw fit to remove that, and although we are the owners of the corporation, we do not have direct control like we used to, of course, and, everyone's in the same boat there, so I think there's a classic example where there's been a shift and while the Water Corporation is probably not a GBE in the strictest sense, it might call itself a GBE, but it, it's owned by the Councils, but its controlled by a separate board.¹³¹

In describing the relationship between the State and local government in recent times, local government reform is described as part of the "process of making local authorities agencies of central policy".¹³² The forty-plus Partnership Agreements instituted since 1 June 1999 by the Bacon Labor government were testament to this policy.¹³³ Yet since the 1993 reforms with reductions from 47 to 29 Councils, local government has voluntarily taken on a wider economic role by setting up, in response to outside threats or opportunities, three major regional organisations servicing the councils within them. As one Mayor observed during interview:

Well I think the weaknesses in the past has been too parochial, having the mindsets of "it's within this boundary", so a strength, a strength, sorry, something that is coming through that will be a strength is the ability to think outside your region, or outside your municipality, no borders.¹³⁴

Used for shared services and lobbying, the Cradle-Coast Authority, Northern Tasmania and the Southern Tasmanian Councils Association, represent a significant political and policy challenge when opportunities arise for funding and so

¹²⁹ Interview: RR6

¹³⁰ Loretta Johnston, "'Too many councils': Government merger plans revealed..." and "Merger agenda to be pushed", *Examiner*, 29 October 2008:1, 2; Helen Kempton and Charles Waterhouse, "Merging Pain. Mayors fire up against Bartlett" and "Merger talk by Bartlett riles Mayors", *Mercury*, 30 October 2008:1, 4

¹³¹ Interview: RR2

¹³² Petrow, "The State", in *The Companion to Tasmanian History*, 488

¹³³ For a full listing of Partnership Agreements, see www.dpac.tas.gov.au/divisions/lgd/partnerships_agreements

¹³⁴ Interview: RR6

sidestepping State development priorities or simply just getting on with what local councils consider as a priority:

I see enormous potential...perhaps a planning scheme might bring it, I don't know, but I feel as though there is more opportunities for us to join with other Councils on major projects. You know some of the projects are just too big for one Council to have but, for example, last year or the year before we put in an application for a Healthy Communities, I think it was, and we joined with Southern Midlands, ourselves and Northern Midlands, and it turned out be about nearly six hundred thousand, that grant, and we actually administered it so we employed and we had the car, you know, where they went around but that turned out to be really successful, and it was only because the three of ourselves had joined together and there were no programs that were missed out in any area so all the programs got equal treatment, and I mean that's just one program. And I feel as though there must be others like that that we could tap into, but would have been too big for us to do on our own. So I guess if we get some of the projects up and running, the irrigation scheme, the Southern Highlands Irrigation Scheme, which will create a hundred odd jobs, if we look at SalTas that want to increase their workforce by seventy four, if we look at the wind farm that's going to create jobs, there's a hundred wind towers there, if you look at the projects that are ready to go, and we can get them up and running, then I think it'll be a totally different approach so I would say four years, if these projects are up and running, the Council will have a different focus on what they've got today, because all of a sudden they'll have more coming in from rates, they'll have more people employed instead of being the unemployment one, and the schools will be growing because there's more children and our health services will have to improve. So I think the next four years are going to be vital to any of the rural country areas.¹³⁵

Current Mayors recognise that changes needed in one community may also be similar to those needed in others. The problems within a locality do not always just need those inside the locality to suggest answers. This shift in local government practice, to think locally as well as regionally, is a response to the dilemma of forced amalgamation:

We're the catchment area of sixty five thousand people for Devonport, that come and use our facilities. Now that's not just in our municipality, it's outside that. For having one overseeing body, may not be able to have that perception, because they've got to look regionally, and I think what we've got to do is, is make sure that we're representing our community, but think regionally, and that's where your local representation comes. I've, over, since being elected Mayor I've instigated meetings with the Mayors only on the North West Coast and what we've done is, we've alternated every three months to go to a different municipality and meet and the host Mayor will take us around and show us what's happening in their community and then we'd meet and talk about issues and bit and pieces and shoot the breeze, so to speak.

¹³⁵ Interview: RR4

But the idea behind that is that what happens in Devonport affects what happens in Central Coast, Burnie, Wynyard and Circular Head and vice versa, so you think locally of course, but think also regionally and if we're able to do that, we grow in strength and that's what Cradle-Coast Authority is. It's a vessel for us to utilise to gain more access to government funding, to make sure the region is represented at that level so, and we, or the nine councils own it and operate it and have equal representation on it.¹³⁶

Despite current Mayors acknowledging the need for a shift in local government practice, the evidence for successful progress in this area is not always promising, and perhaps represents a lingering desire for very local solutions:

Well STCA is a good example. I was always interested in the, or our Southern Councils have a purchasing, developing a purchasing arm much like the Municipal Association of Victoria has and it did a lot of work on it, the STCA with a couple of other Mayors who came forward with a proposal. This went round to all the Councils and there was, it had to be that everyone had to agree to it and everyone didn't agree to it. You'd have thought it would have been a laid down, this is a good idea, that's what it seemed to me. However the, some of the bigger Councils were, their purchasing officers didn't approve of it because therefore they would lose their jobs. And it was obviously communicated to the elected members so the return from some Councils was that this was a threat to jobs, to their purchasing officer jobs within those Councils. I don't believe it was anything of the sort, actually but, so that's the example of how difficult it is to actually, you know, get what seems like a pretty good idea – I've done the same with waste management – I've tried to get all the Southern Councils be involved with that. I mean, you know there's one landfill in Southern Tasmania which is Copping. It's clear that the environment, Environment Department, not planning to allow us any other landfill and, so, the obvious stand outs are Hobart and Glenorchy. Glenorchy's got Jackson Street which has got a lifetime of, I don't know, ten, fifteen years max, I think, and I think that Hobart's McRobies Gully is pretty full, anyway, it's kind of inevitable that we're all going to have join in with Copping but I mean, it's kind of seems to me just as plain as anything that it has to happen, the sooner it happens the better; makes Copping much more efficient organisation that it is and so there seems to be a lot of reluctance although I think that to be fair, I think just recently I think about, I know they've been approached previously, I do think that they're doing due diligence and maybe something might come out of that. But I don't know, it's, you know I, the purchasing idea was just something, so I just gave up after that, trying to, to do something with, we've been communicating with Huon Council and it's completely our initiative. I put the motion in Council to get to talk to them about sharing services.¹³⁷

Local government is still left to respond to demands for localised service delivery in the absence of State government implementation or administration, although Councils still have a “creature of the State” status in that services and infrastructure

¹³⁶ Interview: UR2

¹³⁷ Interview: UF1

need to be delivered within State and Federal statutes, regulations and Australian Standards. For rural remote Mayors, there is an obligation to serve local communities:

Now I think people realise, and I'm talking about this Council in particular, we're involved in doctors, we run doctor's surgeries, we run childcare centres, we run youth services and NRM and all these different areas that Councils are involved in, so that, you know, compared to 19, before, prior to 1993 you've seen a great differences in the services that Councils deliver.¹³⁸

Bridges used to be looked after by the State Government once but it was handed to local government in 1993 and we got a hundred and seventy bridges and you can't repair a small bridge under fifty thousand, so you know, your finances are things that, that's always going to be there as a threat to local government I think, being able to manage, manage your Council while maintaining your rates at an acceptable level.¹³⁹

While there is no longer a permissive aspect to local government, the general competence powers in the 1993 Act underscored beliefs of obligation to serve local communities. Smaller rural councils are left in the bind of acting efficiently and effectively in delivering services. If services are not delivered, populations leave, thereby decreasing the financial capacity of the rates base, thus creating a downward spiral. The desire to manage locally is overtaken by the dilemma of demands for efficiency and effectiveness, let alone the vacuum left by cost-shifting practices of State and Federal agencies:

Well local government, the services that we deliver, and they are many and varied, and many communities, because of other reasons, whether its medical, whether its childcare, whether as I say its roads and bridges and all that, sporting facilities, parks and so forth, we do step into a lot of roles and mainly because others have left them, and we feel obligated because of our community to give them the service, they would otherwise have to move out of the area or expend a lot of time and effort in travel. And we try and then deliver services as locally as possible.¹⁴⁰

The dilemmas of forced amalgamation and the effectiveness and efficiency demands from other tiers of government have led to changes in local government practice with strong moves towards regionalisation and resource sharing. There appears to be a curious reluctance at the State level to acknowledge the capacity for local government innovation in government, such as in the areas of shared services, and as mentioned earlier, proposing instead the usual institutional remedy of amalgamation,

¹³⁸ Interview: RR1

¹³⁹ Interview: RR1

¹⁴⁰ Interview: RR6

albeit these days with more subtle pressures or stripping away of functions to non-elected bodies.¹⁴¹ It is difficult to find any Mayor, rural or urban, agreeing today that small Councils are financially sustainable in terms of the services and demands from their communities:

Well I think you're getting small areas that are financially unviable. Small Councils that are being propped up, often by grants that are coming into those Councils. The larger Councils don't get those grants, so whether that's fair or not.¹⁴²

I think that some of the funding at a Federal level is difficult because it is dollar for dollar, and I think little Councils can't match it. Although I must admit, for Port Sorell primary school we did, because that was really important for us and we can do that over and intergenerational type of thing, and we did that but, that's where it becomes harder where, you know, I envy when I see Council goes out, spends seven and a half million dollars on buying some property for a future initiative.¹⁴³

At the local government practitioner level there are differing opinions, and some confusion, around what the role of local government is, although the ideas and beliefs of local solutions to suit local purposes are still present:

We haven't got clarity in the sense of what is the role of local government because, as I say, each community has a Tasmanian-wide government, each of us do different things and are involved in different areas, without having clarity as to what is and what isn't, and so a lot of it comes out of necessity in trying to deliver those things for their community. Should they be delivering them, do we deliver it well, are the questions that need to be asked. If they don't deliver it, will anyone else step in, and as for, one, got to be acceptance of the next level, the two levels above us, and as I say, that's an open and frank conversation that local government needs to have, because out of the 29 Councils or the 29 local government areas, we all do things, we deliver different things, so for someone to set down this is the role of local government...we actually don't even know what our next door neighbour does deliver, so that understanding needs to be had between us, as a body, rather than put a case to the next level, and be prepared to gain some things but to lose some things, in the sense of the roles and responsibilities, at the end of the day, I can't emphasise enough, it's got to be who delivers the best service to the community.¹⁴⁴

¹⁴¹ Loretta Johnston, "'Too many councils': Government merger plans revealed..." and "Merger agenda to be pushed", *Examiner*, 29 October 2008: 1, 2; Helen Kempton and Charles Waterhouse, "Merging Pain. Mayors fire up against Bartlett" and "Merger talk by Bartlett riles Mayors", *Mercury*, 30 October 2008: 1, 4

¹⁴² Interview: UR3

¹⁴³ Interview: RR5

¹⁴⁴ Interview: RR6

As final comments, two quotes from current mayors illustrate what appears to be an uneasy tension. Councils can serve and deliver to their communities what they want through acting at the local level with local solutions. Yet there is the realisation that to achieve this, councils have to, in effect, give up a degree of autonomy by acting in a regional context. Therefore they are subject to other tiers of government and some standardisation in approach:

I think that we provide functional services such as waste collection, community services, such as promoting the region, running community events, providing community sports fields and things like that. They are intrinsically a functional responsibility. Whereas another very important part of councils' responsibility is being an advocate for local issues and I find that the functions of council as defined in the Local Government Act are actually really good. The first function is to provide for the health and well-being of the community. The second function is to be an advocate for the region, for the people. And there are other functions too of course but those two key functions get to the heart of what you're talking about in terms of functionality, which is to provide for the health and welfare and advocacy for the people, which is a local one.¹⁴⁵

Well I think they should be about community development, full stop. There's this, certainly roads and rubbish and rates which is your core feature of local government and they'll always be there and a requirement for local government to provide. But there's got to be much more than that. State and Federal government certainly don't experience it at the coalface where local government does and we start looking at economic development, we look at providing support for the socio-economic situations that we do have, youth, that's certainly another area, and it's about retention of residencies, providing a quality of life and a standard of life, and it's a huge mixing bowl and the recipe is very difficult.¹⁴⁶

A dilemma for permissive authority

With Tasmania's entry into the Federation it created a dilemma for the ideas and beliefs of localism as permissive authority. In England two tiers of government enabled the permissive development of local government up to the second period of reform. Creation of local government in the Colony State of Tasmania with a weak central government enabled permissive local government practices to flourish, albeit needing shortfalls in local funding supplemented by Parliament. In England insufficient local funding led to reforms and a cessation of permissive practices by the middle of the nineteenth century. In the Colonial State of Tasmania, faced with successive economic downturns and increasing demands for funding for local

¹⁴⁵ Interview: UF2

¹⁴⁶ Interview: UR2

government services, reforms finally led to prescriptive legislation in 1906. The entry into the Australian Federation and successive attempts by Federal governments to impose their policies via funding local government has led to significant confusion not only about the role of local government, but also its scope, particularly under the most recent 1993 Act. At worst, it has led to inertia and a fatal weakness of not scanning for new opportunities or threats, as these Mayors commented:

The other weakness is probably the threat of amalgamation all the time, that I think that, that hanging over Councils' heads is a weakness in some ways because instead of biting the bullet and doing things that some Councils might need to do, they sit back and think, well, why are we going to do that, we could be amalgamated next year or the year after or such and such and, you know, we've seen that happen in some areas where they hadn't put the infrastructure in with water and sewerage.¹⁴⁷

The weaknesses of local government is that it can tend, has tended at times to be too inward looking.¹⁴⁸

At best, though, there is optimism about what local government can achieve, if allowed to, particularly with a shift in local government practices and powers, such as resource sharing and creating regional bodies:

I think local government is very much underestimated in what it can provide. It certainly has the ability reflect what is needed for a community to become successful and, and that is through economic development, social inclusion, arts and culture, et cetera and if they were to do that, well that then becomes a rich and stable, stabilised and sustainable, that's the word I'm looking for, community itself.¹⁴⁹

In current times leaders in local government are more likely to transcend municipal boundaries to work with other Councils and with State and Federal governments. There is a realisation that what might once have been local problems with local solutions particular to a locality are, in fact, common and shared around the State.

Conclusion

Localism as permissive authority was at one time a strong influence on local government practice in Tasmania. Even so, the proliferation of small local authorities depended on colonial or State funding and were not truly independent in managing local problems. Since the 1906 *Local Government Act* these numerous

¹⁴⁷ Interview: RR1

¹⁴⁸ Interview: RR6

¹⁴⁹ Interview: UR2

authorities were subsumed into a system of statewide municipalities, much as they had been in England around a decade earlier. The ideas and beliefs of the second period of reform were starting to manifest in this instance in Tasmania's local government.

The problems of local government finance have meant that the idea of local solutions for local problems is now unworkable. Local government is currently working in a time of strong central governments and this is complicated by being part of the Australian Federation. Has local autonomy fared the same?

Section 3: Localism as local autonomy

Introduction

The English development of local government provided a sense of local autonomy as a norm. As has been pointed out earlier, it was people from the period prior to the second reform period who settled the colony and were later elected to local government positions. How authority was vested and exercised in the colony was very different to England. The nature of the society, the isolation created by the island's geomorphology and those people who gain access to positions of authority, both local and central provides some strength to the argument for the persistence of the idea of and belief in local autonomy as a norm in local government. In developing this argument, events that occurred prior to self-government influenced the desire for as little central government as possible and municipal institutions with a strong sense of local autonomy.

The state of the colony's society

In Britain of the seventeenth and eighteenth centuries, England was being governed by the gentry without a standing army or a professional police force. The involvement of the army in civil government was considered a "detestable encroachment", let alone paid police forces.¹⁵⁰ Free settlers arriving in Van Diemen's Land found themselves having to live in a police state. Lt-Governor Sorell's means of controlling bushranging included measures such as a weekly Sunday muster of all people in the colony and a system of pass documents that required police registration. Even free people travelling between the two settlements of Port Dalrymple and Hobart needed a pass or arrest was likely. Lt-Governor Arthur's reforms went a step further in controlling the colony's population. He instituted a proto-form of local government of Police Districts (1827) with magistrates reporting to him on all convict and settler movements – as Lord Goderich commented: "...establishing more perfect surveillance over the convict population".¹⁵¹ (Ironically these boundaries were to later form part of the

¹⁵⁰ David Neal, *The rule of Law in a Penal Colony: Law and Power in Early New South Wales*, (Cambridge: Cambridge University Press, 1991), 72

¹⁵¹ von Stieglitz, *A History of Local Government in Tasmania*, 20

decentralised municipalities.¹⁵²) To bring the colony to a better state of order and discipline, he established an informants system across the colony in an attempt to rein in illegal activities undertaken by convicts, free settlers and government officials, as well overseeing in minute detail the administration and development of the colony.

Arthur's introduction of the *Police Act 1833* sought to provide a form of municipal management. It was the opposite of the free settlers' ideas and beliefs of how the rule of law was to be administered.¹⁵³ It was punitive in nature and in what must have been galling for respectable free settlers, administered by ticket-of-leave convict police under Police Magistrates and Town Surveyors. The police force combined convicts, ex-convicts and former soldiers and was sufficiently large for one policeman for every 88.7 people.¹⁵⁴

The high ratio of police to settlers created an unpleasant feeling of surveillance in the towns. Corrupt police enforcing those parts of the Act that garnered part of the fines for themselves reinforced this ill feeling, rather than enforcing those sections aimed at health, amenity and convenience for urban residents.¹⁵⁵ The low wages of police did not help the situation, and neither did the practice of rewarding informers with half of the penalties imposed. Arthur's magistrate system ensured total loyalty to him as he withdrew the rations and assigned convicts from existing settler magistrates, and replaced the magistrates with his paid men, thus linking rural areas with the centre of administration.¹⁵⁶ Various Acts also contributed towards poor relations between free settlers and Arthur's colonial management. Laws for the management of dogs, impounding of stock and liquor wholesaling and retailing all presented opportunities for misuse and bribes on the part of police, as well as opportunities for convict police to obtain tickets-of-leave, pardons or other rewards.¹⁵⁷

¹⁵² R.L. Wettenhall, "Background Paper", in *Report on Consultation Held On Local Government For Tasmania Of Tomorrow With Particular Reference To The Municipal Boundaries Commission Report In Relation To The Tamar Valley Area*, (Canberra: Australian Frontier, 1966), 5

¹⁵³ Neal, *The rule of Law in a Penal Colony*, 70

¹⁵⁴ James Boyce, *Van Diemen's Land*, (Melbourne: Black Inc., 2008), 174

¹⁵⁵ Petrow, "Policing in a Penal Colony": 374, 378

¹⁵⁶ Robson, *A History of Tasmania*, Vol. 1, 160

¹⁵⁷ Petrow, "Policing in a Penal Colony": 380-381, 388

Arthurs' attitude was summed up in his report to Secretary of State Hay:

In exacting many of the most wholesome restrictions on the Prisoners, it is frequently necessary to trench upon that unrestricted liberty which is claimed by the free Population. Just laws and regulations, however, are only felt as severe by those who offend them; but however reluctant to acknowledge it, the whole island must be considered in the light of a Gaol, and the Free Inhabitants, whether Emigrants or Prisoners free by Servitude, or Emancipation, should be looked upon as Visitors, and liable to submit to the Rules established for the general peace and order of the Colony.¹⁵⁸

Arthur's expectation of free settlers giving up their rights and liberties, particularly access to rule of law, set up a series of conflicts and engendered ill-feelings that were to last for many years in the colony. Most did not appreciate the curtailment of their expectation to exercise "that influence which is usually associated with large means".¹⁵⁹ The free settlers, and especially the large landholders, were people used to local control of their circumstances given the dominant *laissez-faire* politics of central government of Britain.

Such people had come from an environment of parish and corporation maintenance of law and order and of local unpaid magistracies being linked to property ownership and respectability. Their England had taught them it was natural to exercise rule of law in favour of property rights when it came to managing their property, where individual liberty and private property was protected through independent courts.¹⁶⁰ Their law was that of Blackstone, and it was difficult to adjust to a penal colony where the proceedings of government were held behind closed doors and the Lt-Governor controlled life "according to his exclusive will and pleasure".¹⁶¹ There was a deal of tension between being a free settler and a British citizen in a military colony, where "pernicious centralisation" did not accord with their values in the role of the individual and the state.

An early example of free settler expectations of how society should be ordered was in response to Arthur's investigation of what form of local government would suit Hobart Town in 1829. At the time, Colonial Office budget shortfalls meant that after paying for the cost of police and gaols in the penal colony little was available to

¹⁵⁸ *Historical Records of Australia III*, Arthur to Hay, 23/3/1827, 683

¹⁵⁹ Petrow, "Policing in a Penal Colony": 357

¹⁶⁰ Neal, *The rule of Law in a Penal Colony*, 65

¹⁶¹ James Fenton, *A History of Tasmania from its Discovery in 1642 to the Present Time*, (Hobart: J. Walch & Sons, 1884), 141

address his ideas of developing Hobart Town and Launceston into “pleasing towns and cities splendid”.¹⁶²

Provision of town amenities for Hobart Town and Launceston meant finding the means of assessing rates to pay for lighting, paving and water supply. The response to Arthur from his chosen magistrates was to recommend control of any local government structure to the settlers. Appendix A contains the full text of the short report as its full reading makes its proposals a “smoking gun” for ideas and beliefs of local autonomy, let alone other aspects of local government practice that existed in England at the time. The magistrates proposed a corporation vested with enacting by-laws and assessing its own taxes, with a council of fifteen, annual elections and the holders of certain levels of property within town limits attaining the status of burgesses.¹⁶³ They wanted the “entire management of the Streets, Bridges, Lights, Waterworks...and in short, everything connected with the improvement of the Town, as well as the direction of the Markets, and the Superintendence of weights and measures,” control over removal of nuisances and planning/building regulation – all paid for by a share of already imposed quit-rents (monies to be paid after a period of time following improvement of free land grants) and free access to convict labour to create and maintain municipal infrastructure.¹⁶⁴

These proposals, while largely supported by Arthur as the magistrates cannily suggested he would appoint Town Commissioners, rather than go the next step of free elections, were not sanctioned at the time by the Colonial Office. It would have been interesting to see how such a proposal would have succeeded. Such ideas mirrored what was familiar in England, and notably, the practice of Justices appointing Commissioners to corporations.

Lt-Governor Denison exercised an equally strong grip on government of the colony of Van Diemen’s Land until a representative assembly was granted 1851, often clashing with significant landowners over management of the colony, particularly on the matter of transportation and representative institutions.¹⁶⁵

¹⁶² M.C.I. Levy, *Governor George Arthur: A Colonial Benevolent Despot*, (Melbourne: Georgian House Pty Ltd, 1953), 251

¹⁶³ AOT, CSO 1/1/402/9069, Colonial Secretary’s Office, pp. 133-143

¹⁶⁴ AOT, CSO 1/1/402/9069, Colonial Secretary’s Office pp. 140-142

¹⁶⁵ Bennett, *Reluctant Democrat*, 64, 71

Decentralisation as local autonomy

Ongoing suspicion of central government and dissatisfaction with colonial economic policies contributed to the decentralising of policing and other government functions to local authorities once parliamentary representation was granted in 1856. The “frontier-style conditions” of the legal courts and the practice of law and order in Van Diemen’s Land created a strong degree of cynicism towards government authority, and combined with the geographical isolation over much of the rural areas of the island, reinforced ideas and beliefs underpinning local autonomy.¹⁶⁶

With the granting of colonial Statehood, municipal institutions came into full flower in developing bodies to deal with local issues and as bastions of local autonomy and permissiveness. As well as the municipalities, the town boards, road trusts, boards of health, water trusts, cemetery trusts, school advisory boards, fruit boards, recreation ground trusts, library trusts, public hall trusts, local marine board and harbour trusts all worked to resist interference in local communities by central government, although at the same time, such bodies lacked complete independence by being part funded by central government grants in aid.¹⁶⁷

Conversely, whereas once the issue of taxation without a representative assembly was used as a reason not to take on local responsibility, the matter of cost to Councils in taking on new responsibilities was a significant issue afterwards. Ideas and beliefs of autonomy need to be underpinned by self sufficiency, independence, self-rule and sovereignty. The lack of financial resources and the lack of constitutional heads of power have prevented a full sense of local autonomy being achieved. Combined with insufficient populations and periods of economic depression, while the ideas and beliefs of local autonomy were expressed, achieving these was another matter.

The two main roles expected of local government post 1858 were to (1) maintain local law and order and administer local justice through a system of civic courts, and (2) undertake public works on behalf of ratepayers in their municipalities. The difficulty resided in paying for either. Those landowners, who had demanded a representative assembly before acceding to taxation were also those who formed municipal authorities, held much of the restrictive property franchise with plural

¹⁶⁶ A.C. Castles, “The Vandemonian spirit and law”, *Tasmanian Historical Research Association*, 38, no’s 3 & 4 (December 1991): 114

¹⁶⁷ Petrow, “The State”, *The Companion to Tasmanian History*, 488

voting and were reluctant to tax themselves sufficiently as to be totally independent of central government aid.

Responses to the 1906/07 local government changes

Even so, until the early 1900s various local trusts and boards developed a strong sense of independence and sovereignty regarding their rights to determine their future when the 1906 Commissioners considered new municipal boundaries:

I thank you for your favour of the 4th instant, but as to putting up with being severed from Kingston and Margate for twelve months, we cannot think of it, we have been associated with these Trusts for about forty years now and always got fair and reasonable treatment from them...You seem to think that I am in charge or at the head of the movement that is going on but I am only one of dozens who are determined to fight for our rights and justice until we attain our ends, for we know we have right on our side, that we have suffered injustice without being heard. Look at it from our standpoint we are taken out of a community where we have been well treated and have good roads and put into one from which we have never got good treatment or even consideration...You may rely on it that we will not rest until we are joined on again to the Ward from which we should never have been separated, and that we will be welcomed back to the said Ward.¹⁶⁸

In reference to the inclusion of Weldborough. The Trustees think it only fair that it should be included in our District, as all their Traffic comes through our Roads and it is eminently unfair that we should keep their roads and Goulds Country take their Rates.¹⁶⁹

One Town Board Meeting heard that Commissioners were not responding to correspondence. A Town Board Member, Mr Levy, commented, "There would be a hue and cry from the other town boards if Devonport was exempted." The Chairman, Mr Luck, responded, "We cannot be expected to look after them." To which another Board Member, Mr McFie, added, "No, that's their burial."¹⁷⁰

Not everyone was opposed to changes. One letter, amongst a number in the Archive Record Box, was satisfied they would see the benefits of a boundary adjustment:

...no one can fail to see that the interests of all the district in that vicinity be with the Tamar. I trust that you will do your best for our Town, and see, that

¹⁶⁸ AOT, CB 56/1/6, TJ Smith, Oyster Cove, 14 September 1907 to the Premier; AOT, Volume 201, 151-225, *Premier's Office Records*

¹⁶⁹ AOT, CB 56/1/2, John Mallinson, Secretary, Boobyalla Road Trust, 2 April 1907

¹⁷⁰ *North West Post*, 11 June 1907

the citizens who willing to meet any body more than halfway, will not be imposed upon.¹⁷¹

The relaxing of the franchise and the reforms of 1906/07 enabled greater local involvement in municipal matters with some successes. External events (two World Wars and the economic depression of the 1930s) saw a gradual decline again. Low revenues, outstanding rates, debts, high administration costs and inefficient service delivery resulted in run-down and neglected roads, water supplies and sewerage facilities.¹⁷² Attempts to reconsider municipal amalgamations through the 1938 Royal Commission again elicited evidence of satisfaction with the then present state of local autonomy:

This district has had local government for nearly fifty years and as far as known there has been no indication that residents desire to unite with any other body. This Council wishes the present centre of municipal government to be retained as an essential part of the community. Without a local centre, interest will flag, and possibly needs of the district may receive unsympathetic consideration from a body composed of representatives, the majority of whom have no personal or pecuniary interest in the district.¹⁷³

My Council are of the opinion that the present system of Local Government meets with the general requirements of the Community, and is carried out generally in an efficient and economic manner. We consider that by enlarging and amalgamating Municipalities that the local Community spirit would be lost... In the Country portions of the Municipalities the Ward Councillors take a special pride in seeing that the roads etc under their control are maintained to the best advantage with the monies that are available for their maintenance.¹⁷⁴

Small compact Municipalities can control their functions better and more satisfactorily than larger ones. This has been proved by experience.¹⁷⁵

At the hearings held for the Royal Commission, the Warden of Queenstown made it plain:

¹⁷¹ AOT, CB 56/1/3 1 Jan 1903-1Dec 1907 HOB B 212/2-HOB B 212/2, 15th February 1097 H. Walduck,, Chairman, Beaconsfield Town Board to Commission Chairman

¹⁷² Rootes, "Overstrained and creaking at every joint": 155

¹⁷³ AOT RC 19/2/1, Submission of Bruny Island Municipality, Royal Commission into Local Government 1938-1939

¹⁷⁴ AOT RC 19/2/1, Submission of Albert W. Townsend, Warden, Burnie Municipality, Royal Commission into Local Government 1938-1939

¹⁷⁵ AOT RC 19/2/1, Submission of Evandale Municipality, Royal Commission into Local Government 1938-1939

The Council is absolutely opposed to handing any of its present powers to the Government. It has no reason to believe that any State Department can handle any Municipal service more efficiently.¹⁷⁶

Waratah Municipality passed a Council motion and tabled it at the Royal Commission, in part emphatically stating:

Amalgamation means Centralisation and that is the negation of the theory of Local Government.¹⁷⁷

And as perhaps the definitive statement on local autonomy at the time, Gormanston Council's response to the proposal to merge it with Queenstown and Strahan:

We realise we are paying more than standard charges for less than standard services. But if we are prepared to do this to preserve our entity it's our money and our business and no one else's.¹⁷⁸

The persistence of a desire for local autonomy

Post 1906/07, the desire to continue to manage localities expressed itself in an early meeting of the Municipal Association of Tasmania in four motions dealt with roading:

That this session protests against any road, classed as a Main Road by the Engineer-in-Chief, being taken over or controlled by the Government, but that such controls should remain in, and be vested in, as at present, the Municipal Councils of the State. And, further, that Parliament be asked not to pass any legislation having for its object the controlling of the Main Roads by the Government.

That monies voted for Main Roads be expended by the Municipal Council, and not by the Department.

That monies voted under the Aid to Road Rates Act be expended by Municipal Councils, and not by the Government.

The advisability of each Council allocating and expending its own proportion of the Special Main Roads Grant.¹⁷⁹

Comment was offered from the floor that, "...too much money was lost by government officials. Those who were on the spot, who know the local conditions, knew exactly what was best for their own districts."¹⁸⁰ Post-war legislation to deal

¹⁷⁶ AOT RC 19/4/1/3, Submission of Queenstown Municipality, Royal Commission into Local Government, 1938-1939

¹⁷⁷ AOT RC 19/2/1, Submission of Waratah Municipality, Royal Commission into Local Government 1938-1939

¹⁷⁸ Wettenhall, "Background Paper", 8

¹⁷⁹ AOT CB 52/5/1 *Minute Book*, Municipal Association of Tasmania Third Annual Session May 20-21 1914, Hobart, 97-101

¹⁸⁰ AOT CB 52/5/1 *Minute Book*, Municipal Association of Tasmania Third Annual Session May 20-21 1914, Hobart, 97-101

with the neglect of infrastructure saw a cost-shift onto municipalities who were obliged to take on provision but with inadequate funding or an inability to borrow sufficient money (or service the debt) to complete works. Despite problems, municipalities this time did not want to hand back control to the State but to keep it local.¹⁸¹ Twenty years later the continued isolation of some areas of the State encouraged local autonomy as the Warden of Queenstown Municipality explained:

...Council is absolutely opposed to handing any of its present powers to the Government. It has no reason to believe that any State Department can handle any Municipal service more efficiently.¹⁸²

The belief in the value of local knowledge is still present today for local government keeping control of roading:

And I think, I think that Roads to Recovery from a Federal level is a good example of where the money is possibly more effectively spent, when local Councils know the areas, they know the roads, they know there is a slip or a fall there, they know that there is a watercourse coming under that, they know all the relevant information, so when they put in that road, they are prepared for it. Where that money comes straight to, if it went through State government was then directed through their outsourcing to another group from down South for it to come up the North West Coast to build the road, who's not, who doesn't have that history. So local government can provide a lot of tradition and history and knowledge.¹⁸³

When town-planning legislation was introduced in 1943 the key issue for municipalities was maintaining control over local areas on the basis that they knew what was best needed. In evidence given to the Joint Committee of Both Houses of Parliament on the Town and Country Planning Bill in 1943, the Warden of Burnie stated:

Local men with local knowledge elected by the ratepayers (were) far more likely to correctly estimate (local requirements than) an outside Board.¹⁸⁴

The belief in the value of municipalities as best at shaping their communities through planning schemes continues today:

Exactly, exactly and that's what we're doing with our planning scheme. We, we've actually back zoned some areas. It's caused problems for some land owners but at the same time we've, we've looked at it on an overall basis.

¹⁸¹ Rootes, "Overstrained and creaking at every joint": 159

¹⁸² AOT RC 19/4/1/3 *Royal Commission into Local Government 1938*, H.H. D'Alton, Warden, Queenstown Municipality, 6 March 1939, 1588

¹⁸³ Interview: RR5

¹⁸⁴ M.A. Whitford, 134-6, Minutes of Evidence of the Joint Committee of Both Houses of Parliament on the Town and Country Planning Bill 1943, quoted in Petrow, "Against the spirit of local government": 210

Where's the best place for the town to grow, and we've looked at it in each town so that's an opportunity. The other opportunities, particularly in the Huon Valley, I'd say our main opportunity is that we're only for anybody that wants to travel to Hobart to work, so, you know, we can build on our residential area down here and that's what's happening in Ranelagh there.¹⁸⁵

Planning is, is, is a very emotive area and, you know, it's a very difficult area to legislate for and to get equity and to get transparency and consistency and all those issues. And, you know, I don't have any problem with the State having a template, no trouble at all, provided the local issues, and the, and especially the zonings are done locally, or are established locally by local representatives.¹⁸⁶

The issue of autonomy in planning reform remains contentious:

I mean the State government advertised at the weekend for six no doubt like minded citizens to establish a single planning scheme, one planning scheme for the State. Now what lunacy is that? I mean we've been working for three years on planning reform in local government and there have been substantial runs, you know, PD4 means you can build a house as long as it ticks everything in the box...you know, and we've all worked on strategic land strategies that, within our regions, that, you know, are consistent, we've all put in draft plans, so we're seen as really, the threats are from, the current government for example that's come in saying we're going to throw away red, green, blue tape, and we're going to have a single planning scheme, well, that fact of actually doing that suggest to me a complete lack of understanding of what's gone on in planning reform in the last two to three years... If they want a single planning scheme, I mean how do you have a planning scheme that's, that, that doesn't acknowledge, Central Highlands' doesn't have any coastline, I mean, we have a coastal policy and if people want to build next to the shore, I mean, it wouldn't be the same for the Central Highlands, I don't think... But you know, if you want a house in, in the middle of Bruny Island, you know, it's going to have the same regulations if you build a house in Blackmans Bay? Unlikely. So I can understand the push to make it simpler, and you know, but it, it's kind of a concept that once you understand a bit more about what has to be done about planning it's lunacy, to suggest in my opinion.¹⁸⁷

There's other parts of Council that would be land use planning which is very important, you know that area, planning of the area, of the use of land, what it's meant to be, where it is, creating an environment that guides the proper, where you should have industrial development, where you should have residential, where you have your sports field, where you have your whatever, so. An important part of Council so that's a role that Council obviously plays, much to the disgruntlement of some people in our community, that we have a part to play in (planning)... well it means that currently local people can have a

¹⁸⁵ Interview: RR1

¹⁸⁶ Interview: RR2

¹⁸⁷ Interview: UF1

strong say in what they want in their local area and how they want it to be and I think that if you don't have that it's really, I think it's disappointing.¹⁸⁸

Both of these quotes illustrate a deep concern to keep control over local conditions based on a perception that local conditions are rarely replicated across the State. The Mayor arguing the case for a “strong say” is echoing what he believes are valid constituent concerns for controlling how the locality looks and people’s interactions with it. The persistence of a desire for local autonomy is well reflected in the comments around planning, given that planning touches most strongly where people live, where they have invested or built a home for their families.

Local autonomy for law and order

Decentralising government and policing was desirable in a colony experiencing the aftermath of transportation. The “residuum of crime, disease and poverty” meant that there were more lunatics, invalids, paupers, orphaned or abandoned children and prisoners in Tasmania than other colonies in the following two decades.¹⁸⁹

“Expirees”, “emancipists”, “old hands” – however ex-convicts were named, they presented perceived property threats to free settlers. Where they settled or congregated, calls for police protection followed.

In 1835 the propertied class of Morven and Breadalbane in the north of the island called for repeated police protection against cattle stealing and in the absence of Arthur providing the same, formed the “Association for the Suppression of Felonies” in October 1835 to undertake their own policing, as a form of *posse comitatus*.¹⁹⁰ The rise of an emancipist working class was also felt to be too great an influence. In rural areas with new municipalities dominated by the large landowners, local government magistrates worked with municipal police forces to impose their “dominant version of good order”.¹⁹¹ At the same time local magistrates courts were taken on with wardens being made ex officio justices of the peace for the municipality and the senior lay Court of Petty Sessions magistrate.¹⁹² The downside of strong local control of policing was a constabulary who soon learnt “when to open

¹⁸⁸ Interview: UR3

¹⁸⁹ Reynolds, “‘That Hated Stain’”: 21

¹⁹⁰ *Cornwall Chronicle*, 14 November 1835:1. See also Petrow, “Policing in a Penal Colony”: 351-395

¹⁹¹ Breen, *Contested Places*, 131. See also “Land and Power in the District of Deloraine 1825-75”, *Tasmanian Historical Research Association Papers and Proceedings*, 37 no. 1 (March 1990): 23-33

¹⁹² Petrow, “Economy, Efficiency and Impartiality”: 10

their eyes and when to keep them shut”.¹⁹³ Respect for the rule of law was eroded when elected officials were able to flout it or defy it for local political reasons – charges of favouritism, partiality and corruption, incompetence in the law, abuse and patronage were not uncommonly levelled in the press at both police and rural magistrates.¹⁹⁴ Despite these problems, there was still a reluctance to re-centralise policing in the mid-1870s, in part as a hangover from feelings created by colonial Lt-Governors pre-1856. It was only when these fears receded with the change of people in the legislature and the realisation dawned for most municipalities being released of policing would free up their financial resources for public works, that centralisation was achieved in 1898. The involvement of local government on the Magistrates Bench was considered a necessary continuation in the early twentieth century:

As regards the Magistracy and Courts of Summary Jurisdiction we consider that the accepted British system has stood the test of time and should not be uprooted. The Honorary Magistrate is not a policeman nor connected with the Police Department; he is aware of local conditions, his decisions in nine cases out of ten are probably just; and the tenth he errs on the side of leniency. It is understood that there is a proposal emanating from the Attorney General’s Dept. to introduce a travelling Court in a caravan. In the opinion of this Council such a proposal savours too much of Government in a Crown Colony, and through possibly expeditious and economical might well develop into police persecution which is anathema(sic) in all British speaking countries.¹⁹⁵

The strength of localist beliefs and values present at the time is strongly highlighted in this statement. Despite the centralist period of the colonial Lt-Governors, belief in a British system of justice delivered at the local level, as present in England prior to the second period of English reform, was still considered acceptable in 1939 in Tasmania.

The dilemma of Federation

In the past Tasmania has been assessed as having a:

...concentration of political power in a landed gentry throughout the periods prior to and subsequent to the granting of self-government in 1856 that has persistently affected the political system. The prevailing political ethos has

¹⁹³ *Cornwall Chronicle*, 11 July 1878

¹⁹⁴ *The Cornwall Chronicle*, 22 June 1867, 28 August 1867, 8 September 1869, 11 July 1878, 10 September 1875; *The Mercury*, 14 March 1863, 11 September 1868, 1 October 1869, 16 August 1870, 25 November 1871, 12 August 1878. See also Breen, “Local Authority in Colonial Tasmania 1858-1898”: 29-49

¹⁹⁵ AOT RC 19/2/1/1 Submission of Lt-Col. Donald Cameron, 25/1/39, Royal Commission on Local Government 1938-1939

been conservative in the traditional sense of the term, with a high regard for existing institutions and processes.¹⁹⁶

Local autonomy was curtailed in form by the reforms of 1906/07 and the later development of State statutory authorities. However, local government still retained a degree of control over various activities and for as long as Councils could, resisted further reforms eating into local control through sympathetic representatives in both Houses of Parliament. Whilst the free settlers wanted power decentralised into local government institutions once self-government was achieved, Councils were not accorded any constitutional rights and were subject to the rule of Parliament and the policies of the State. Limited self-rule is seen as desirable for local government but only insofar as it meets with State government policies. Councils could be forced to take on roles by the passing of legislation although the Tasmania State government in the past preferred to take a permissive approach on some issues, such as town planning, before having to step in more strongly as it is currently doing on the matters of water and sewerage reform and planning reform.

This situation has been entrenched by Federation, where local government was not accorded any heads of power in the Australian Constitution and left as a responsibility of the State. The capacity for local autonomy is financially diminished by cost shifting from both State and Federal tiers, a fact that current Mayors have mixed feelings on:

Oh, there is some cost shifting with, and responsibility more on local government I feel now, and that's why local government has grown to what it is today, through necessity because of the requirements put on it by State government. But I also see the State governments not too, if it's not careful enough, that the local government will be stronger, if not already, based on what a State government is.¹⁹⁷

...there's a big push and there always has been from State for, for Council to pick up the slack and it's unfair because we don't have the rate base to accommodate a fraction of the wish list, so we have a very limited income source, we're expected to do so much with it.¹⁹⁸

It might be fair to say that "local autonomy is as local government does" in the current context of where it sits in the Australian Federation:

¹⁹⁶ Ralph Chapman, Graham Smith, James Warden and Bruce Davis, "Tasmania" in *Australian State Politics*, Brian Galligan ed., 116 (Melbourne: Longman Cheshire Pty Limited, 1986)

¹⁹⁷ Interview: UR1

¹⁹⁸ Interview: RR7

Let me say at the outset that we have been losing some of our responsibilities and that started a long time ago. We lost the police, we lost the libraries, we've lost fire services, we've now lost water and sewerage. So over time our direct responsibilities have been diminished. However I don't believe our functions have changed at all. For example under the *Local Government Act's* functions we still have a responsibility for the good order and safety of our residents. If we are doing our job right that means we are working very closely with the Police department, we are working closely with hospitals and clinics in our area, we've still got that important advocacy role to ensure that the State bureaucracies are delivering for our people. So, the overall function is still there, it's just that the scope of management tasks has diminished.¹⁹⁹

Well I, well I think in our area, and this will vary because when you live closer to Hobart you don't have an issue like we do, but we have issues with, for example, health, you know, medical services, closed our hospital so now we're fighting now to make it into a, have the hospital in a way reinstated for a multi-purpose service, where it will have aged care beds as well as hospital beds and that will fluctuate for the needs of the community, and I think that's a very important role.²⁰⁰

Given the problems caused by an uncertain status in the Federation, the modernisation of local government has been difficult to achieve in determining what roles and responsibilities lie where. The strength of the idea of local autonomy and its persistence can be argued as part reason for this, although cost-shifting and policy implementation also contribute to entrenching the desires for local control in the perceived best interests of a local community. In the words of one Mayor:

The issue is always going to be with, with any State bureaucracy...is the priorities. Where locally, the local council can set their priorities... you've just gotta ask yourself the question, under a bureaucratic organisation, would they have the same interests and same concerns and reflect the issues of the local community?²⁰¹

Conclusion

The early state of Van Diemen's Land required some particularly strong-minded Lt-Governors to create a situation of more perfect colonial state. The strongly centralist Governors and their policies set up a strong action-reaction response when the colony was finally granted Statehood. Decentralisation and strong local government institutions were favoured, rather than any strong centralist State government. Local autonomy reached its peak in the period before the 1906/07 reforms, although it

¹⁹⁹ Interview: UF2

²⁰⁰ Interview: RR4

²⁰¹ Interview: RR2

should be noted that local institutions still required state taxation to augment rates. Post Federation local government became a “creature of the State” and has since been only able to exercise local autonomy insofar as it meets State government policy objectives and working with State government instrumentalities. The idea of local autonomy was further weakened by the lack of any financially independent status in the Australian constitution. As an idea it still persists but much reduced by the dilemmas posed by centralist control.

CHAPTER 6 CONCLUSION

The development of local government in Britain was linked by its relationship to central government. For much of its development, there was a strong sense of local destiny, of control over circumstances, aided by weak central government. Only during periods of crises, such as the need for the Tudor monarchs to rely on a settled kingdom in order to pursue their national policies, or when the unintended consequences of disruption from agrarian and industrial technological change created significant economic dislocation, has central government sought to control local government. Noting the timing of between the two periods of English local government reform and the period of early settlement in Van Diemen's Land, it is reasonable to argue the people who settled this island and developed its institutions were those whose ideas and beliefs of what local government meant in terms of community, permissive authority and local autonomy were from the period *between* English local government reforms.

It was their ideas and beliefs that shaped their response to what was an isolating landscape and created a sense of place and community for the many small towns that preserved English identity far longer than other settlements in Australia. This isolation influenced how ideas and beliefs of local autonomy blended with the dilemmas of central authority in the form of the Lt-Governors' policies.

Once local government was instituted and the free settlers had a central authority of their own to control via a representative Parliament, the pattern of permissive development of municipal government echoed that which would be found in England prior to the second period of reform. The magistrates and policing districts that proved so useful during the bushranging period were held onto for as long as possible by municipalities to ensure local autonomy and an ability to control ex-convict populations into parameters of respectable behaviour. Even when policing was centralised in 1889, local government held onto the roles of local magistrates and Justices of the Peace, arguing in favour of local knowledge of circumstances. The same occurred in retaining the roads trusts and numerous other small local institutions, even though they needed central subsidisation through the refusal of

landowners to pay the real costs of the services delivered and the infrastructure that was constructed.

The subsuming of multiple functions and creation of a municipal system that covered all of the State curtailed ideas of local autonomy, as the problem of lack of local money was unable to be resolved. Tasmania's entry into Federation provided a shift in the constitutional responsibilities of the State's central government, leading to the eventual subsuming of many local government activities into statewide government departments. Communities are no longer as isolated and their demographics are changing significantly as populations of sea/tree changers flow into the State, diluting any claims of "community of interest" to support demands for local autonomy. Current local government practitioners recognise the need for changes in local government practice although the *idea* of community still resonates strongly, even if there is some confusion over what the *role* of local government should be today. The dilemmas of central control through Federation and increasingly centralist governments have reduced any strong support for ideas of local autonomy and permissive authority. Local government practitioners now work with other tiers of government, albeit with a deal of resentment and disappointment when unable to get the results wanted for their communities.

As a tradition of passed-on ideas and beliefs over generations, localism still appears strongly in the interviews with current local government practitioners. The sense of identity with communities is a repeated theme that has persisted over time, even as populations have moved from rural areas into urban towns and cities. The changing nature of Tasmania's society has been in part affected by the shift from a strong agricultural commodity economy to a service economy. The dilemma of a globalising world with improved transport and communications have shifted council's attention from an inward focus to a more regional approach. At the same time, there is still strong support for maintaining the strength of local communities. The geography of Tasmania strongly influenced the isolation of communities in the past and continues to do so today.

Much of Tasmania is recognised as distinctive landscape in its own right with a complex local government tradition of localism challenged by centralist and devolution ideas in a global world. The marked Anglo-Saxon feel of the population patterns in twenty first century Tasmania are slowly changing with Federal

government multicultural immigration and settlement policies. Local government practice has been to embrace multiculturalism. Remnant architecture and English-sourced names for localities are artefacts of the past, not indicators of present or future identity. Only parts of Tasmania, the constructed remnants of earlier days, would qualify as “a picture postcard England, a British tourist Authority England, a Merchant Ivory England”.²⁰²

²⁰²L. Schofield, “A private arcadia”, *The Sydney Morning Herald*, 6 January 1996

PART II: A TRADITION OF LOCALISM

PART II CONCLUSION

Part II considered the evidence for a tradition of localism in English local government (Chapter 5) and then argued the case for the transfer of the same to the colony of Van Diemen's Land (Chapter 6).

In considering the evidence for such a tradition it developed the story of a system of local government that flourished over an extended period of time in the absence of any effective and then interested central government developing a set of local government practices that strongly reflected a sense of community, identity and place, permissive authority and local autonomy. The ideas and beliefs within such a tradition were strengthened in the first period of reform with the creation of new forms of local government institutions. It was the dilemmas of economic and social change that weakened ideas of community and identity and challenged the validity of permissive authority and local autonomy as ideas in the best interests of the communities being (or in this case, not being) served. The impact of these dilemmas on local government practices was exacerbated by the intervention of central government to reform local government from an intensely local affair into a nationwide municipal structure by the end of the nineteenth century.

Moving then to Van Diemen's Land, given the timing, it is reasonable to argue that those who settled the island were more likely to reflect the ideas and beliefs of a localist tradition from the period prior to the nineteenth century reforms. Van Diemen's Land was essentially an agricultural society based on convict labour for its first fifty years. Considering that state of the island's society and its strongly centralist Lt-Governors, any introduction of widespread local government was delayed (other than a permissive road trust system and management of the towns of Hobart and Launceston) until after colonial Statehood was granted. The reaction of colonists to the centralising Lt-Governors was to create a local government system with a strong sense of local autonomy and permissive authority, although increasingly dependent on funding from central taxation. Just as the delay in the

introduction of local government was mixed up with the issue of transportation and a representative assembly, so was the practice of then local government affected by policing and judicial issues of the ex-convict population. Attempts to remove policing from local government were resisted on the grounds of needing local control over policing. By the end of the nineteenth century the ideas and beliefs of permissive authority and local autonomy were coming under challenge through problems of duplication and waste during times of economic downturn. Federation provided an additional challenge with local government being omitted from the Australian Constitution with any heads of power. The 1906/07 reforms created a statewide system of municipalisation. While the ideas and beliefs of permissive authority and local autonomy persisted and formed part of the resistance to further reforms, in practice local government practitioners found they had to work with State and Federal governments on municipal matters as they simply lacked the monies to achieve the level of services expected of them. In a way this echoes the second period of reform in Britain, initially delayed by being a convict colony without any municipal structures such as parishes and corporations, but not far behind once the municipal bodies in Tasmania failed to meet the demands placed on them. Given the strong tendency in the late nineteenth, early twentieth century for Tasmanians to identify as British, the 1894 municipal reforms and later occurring in Britain would have been considered a valid model to follow also.

The ideas and beliefs of community, identity and sense of place are the most enduring in both Britain and Tasmania. Culture and custom in Britain is intertwined with local government practices and much of this made its way to Van Diemen's Land and persisted to this day, even if only in name, such as the use of parishes and counties, and elected roles such as Alderman and Mayor. The use of Trusts and Commissions appeared in the management of roads and water. However, the form of local government in Tasmania differed from that of Britain as a consequence of the early start as a convict colony. The strong centralist control of the Lt-Governors meant that a system of Justices of the Peace took on a more judicial, rather than civil, role. In terms of identity the population remained intensely patriotic towards Britain until post WWII. Much of the landscape is littered with English locality names. However the nature of the geography of Tasmania has had the greatest impact on developing a strong sense of community and this endures. Identification with what

was perceived as a “community of interest” formed a persistent reason to resist reform of local government. Changes in population movements and increasing complexity in the nature of communities plus the decreased isolation and an interconnected globalising society through with changes in transport and communication are dilemmas that have challenged local government practices around defending and concerning themselves with just their municipal communities. Local government practitioners are now more willing to consider issues on a regional, not just local municipal, scale, and have shifted to defending the regional areas within the ideas and beliefs of community, identity and sense of place.

Having considered a tradition of localism in English and Tasmanian local government, the tradition of voluntarism will be examined in Part III using the same framework.

PART III: VOLUNTARISM

PART III INTRODUCTION

In England there has always been more liberty, but worse organization, while in other countries there is better organization, but less liberty. It is necessary, then, that in addition to the national representation, there should be municipal and provincial representations: and the two questions which remain to be resolved are, how the local representative bodies should be constituted, and what should be the extent of their functions.¹

In Part III a tradition of voluntarism in local government is explored through its development in England and how it was expressed in Van Diemen's Land, later Tasmania. To recap, a tradition of voluntarism in local government is interlinked with that of representation. Voluntarism is concerned with who *occupies* public office and is therefore chosen for leadership of a community. Representation, the tradition to be explored in Part IV, will explore the ideas and beliefs underpinning who chooses that person and will focus on aspects of franchise.

Deriving an English tradition of voluntarism in local government looks at the expressed ideas and beliefs underpinning local government practices over a long period of time. Chapter 7 will begin with a short discussion on what is meant by "voluntarism" in the context of this thesis and the focus on ideas and beliefs of leadership. Deriving this tradition draws on the history of feudal local leadership, merchant guilds and their relationship to the development of town charters and elected positions and the role of the Justices of the Peace. Various dilemmas will be considered for their consequences on local government practice in the time period of settlement of the colony of Van Diemen's Land.

Attention is then turned to events in Van Diemen's Land and its later transformation, first as a Colonial State and then as part of the Australian Federation of States

¹ Mill, "Considerations on Representative Government", 364

(Chapter 8) and the dilemmas that challenge local government practice. The Conclusion after Chapter 8 will draw together the evidence for a tradition of voluntarism with the ideas and beliefs surrounding leadership to determine the past strength of a voluntarist tradition and what strength there may still be, as well as its form, influencing the reform of local government in Tasmania.

PART III: VOLUNTARISM

CHAPTER 7: DERIVING AN ENGLISH TRADITION OF VOLUNTARISM - PROPERTY, LOCALITY AND POLITICAL POWER

CHAPTER 7 INTRODUCTION

This chapter will argue for an English tradition of voluntarism in local government tracing its development through the ideas of property and public office, with subsequent linkages to patronage and duty. It will canvas the interlinking of leadership with property and franchise as it relates to public office which then in turn begets ideas and beliefs surrounding duty and patronage. In terms of local government practice, a tradition of voluntarism as leadership will briefly consider the roles of Justices of the Peace, as well as the dilemmas for local government practice when people are excluded from public office. It considers the role of the Justice of the Peace and that of elected local government people in relation to the ideas and beliefs of this tradition.

PART III: VOLUNTARISM

CHAPTER 7: DERIVING AN ENGLISH TRADITION OF VOLUNTARISM - PROPERTY, LOCALITY AND POLITICAL POWER

‘We have always’, said a Marylebone vestryman in 1830, ‘made a point of having as many noblemen and members of Parliament as we could get hold of.’²

[T]he Local Government of towns is almost entirely in the hands of shopkeepers and struggling professional men, engaged in busy callings and with few hours to spare for public business...no class has less concern for self-government in towns than the commercial aristocracy.³

Introduction

The saying, politics is about who gets what, when and how, is more elegantly defined for local government as being a question of how “property and its diffusion” is managed.⁴ In this sense, a tradition of voluntarism in local government includes the aspect of leadership and the ideas and beliefs that have developed around it. Deriving this tradition is achieved by an examination of local government evolution in Britain over a long period of time.

To develop this tradition more fully using an historical perspective, this chapter first considers aspects of the tradition under discussion. In deriving the tradition from historical sources, various questions arose. What qualified a person to act on behalf of a community? Did leaders in the community occupy their position with the belief that they act by common agreement for the common good of all in the community, or was it for the common good of all in a *defined* community, such as only those that own property? Local leadership would reasonably be expected to speak and act on

² Webb and Webb, *English Local Government*, Vol 1, 213

³ George C. Brodrick, “Local Government in England”, in *Local Government and Taxation in the United Kingdom. A Series of Essays*, J.W. Probyn, ed., (1875), 70-72 quoted in Hennock, *Fit and Proper Persons*, 319

⁴ Mackenzie, *Theories of Local Government*, p. 7

behalf of all in a local community, yet if leadership is only drawn from a particular group, whose local preferences and demands are then reflected and what local government practices can be observed?

Starting with discussion of what is meant by leadership within a tradition of voluntarism enables observing what ideas and beliefs constitute an English form of voluntarism in local government. This chapter first traces the development of leadership in local government and how ideas of property, locality and political power are intertwined with ideas and beliefs of what constitutes good leadership. It then looks at the rise of local leadership and the relationship with central authority via parliamentary franchise. This brings to the front how ideas of patronage and land ownership are tied to obligations of duty and the idea of non-remuneration for local government service. Who a leader represents and whose local preferences and demands are reflected in the choice of leadership are considered through the problem of exclusion. This chapter concludes with some observations on the ideas and beliefs for a tradition of voluntarism for English local government that would have likely existed at the time Van Diemen's Land was settled.

What do we mean by leadership within a tradition of voluntarism?

Orr and Vince argue for a tradition of mayoralty to understand leadership in English local government.⁵ They drew on the English mayoralty dating back to the 19th century second period of reform where such men were acknowledged as *the* social and economic representatives of the Council and the town. Their tradition of leadership looks to current times although they still see the role of mayor as the protector of local interests. A modern mayor now moves outside of their community to “make partnerships more effective, operate across fragmented organizational boundaries, and reinvigorate communities”.⁶ Yet such a narrow timeframe excludes the ideas and beliefs of what local government leadership meant *prior* to the nineteenth century. There was no mayoralty leadership vacuum prior to the nineteenth century. There is however a long history of local leadership with legitimacy based around property and locality, patronage and duty. Of course, access to significant property and local government leadership also enables a degree of local political control and in England the relationship between local and central government was

⁵ Orr and Vince, “Traditions of Local Government”: 662-663

⁶ *Ibid.*

managed through institutions based on locality (boroughs and parishes) and the use of property-based franchise to share leadership and interests between the two.

If a tradition of voluntarism as leadership is to be derived from historical sources, any assumptions about the ideas and beliefs surrounding it need to be clearly spelled out, and the practices associated with it located in time. Just as it is argued research on local government in England has no real testable hypotheses “but certainly talk, certainly idea”, the same applies to with deriving a tradition of voluntarism.⁷ It has become what it is simply by historical fact of how it was practiced, and how it continued to be practiced once challenged by new ideas and beliefs of how it should be practiced.

Managing a locality is difficult to do from a central position of authority when there are a multitude of issues that need attention. If nothing else it can suck considerable energy and resources from dealing with central matters. Mill recognised this when writing on local representative bodies with two hundred years of hindsight of local government since the first Tudor reforms. He observed there was far too much “employing of this supreme power of the State in cutting small knots which there ought to be other and better means of untying”.⁸

The development of local leadership is then a necessary part of local management. In balancing off organisation with local autonomy, it is reasonable to argue that qualifications for leadership need to relate to the local area being managed in order that it is managed for the best possible outcome. Are there then assumptions that need to be taken into account around ideas and beliefs of leadership?

It can be assumed there is a confidence that the person occupying public office is able to exercise power and demonstrate usefulness above that which other people in a community are able to exercise. Being chosen for public office implies meeting sufficient qualifications to undertake that role in best representing the interests of a group, yet how is the person chosen and who sets the qualifications? It is reasonable to assume that one such qualification would encompass having an interest in the local area shared with sufficient members of a locality.⁹

⁷ Mackenzie, *Theories of Local Government*, 5

⁸ John Stuart Mill, *Utilitarianism, Liberty, Representative Government*, (London: J.M. Dent & Sons Ltd., 1861, reprinted 1964), 346

⁹ Jenks, *An Outline of English Local Government*, 178

The issue then in observing English local government is the level of education and capacity that enables a person to engage in the process of leadership. From this, the development of local government leadership is underpinned by the ideas of interest in local property and capacity to carry out public duties that control land.¹⁰ We see this historically occurring through guild and town charter development and during the first period of reform with the innovation of the municipal rate. The connection then between land ownership in a locality (either inherited or acquired) becomes part of the qualification for public office administering the locality.

If the landowner has sufficient time and income to give freely of his labour for public office, there then develops an idea that that person is free of coercion either locally or centrally, so can act independently and administer the public office with a sense of fairness and impartiality, and in the best interests of the community, for the good of all of the community, with no party political allegiances – common good for the local good.¹¹ Can we assume that if a person is sufficiently wealthy as to surrender his time for public office, then he can do so without expecting remuneration? If he is not beholden to others for livelihood or well-being, it is reasonable to believe he can act with a level of impartiality and fairness.

If the idea of leadership can be expressed through having property in a locality, and if the locality also has the opportunity to choose a leader to represent its concerns at a central level, local leadership is also then capable of achieving a degree of political power at both the local and central level. If those who lead at the local level are in some sense sympathetic to those who lead at the central level or are able to choose that central leadership, political power is likely to be greater in the interchanges between local and central in ensuring the best interests of the locality. As mentioned earlier, managing a local issue from a central position can be difficult, so local leadership can also then become concerned with dispensation of laws and justice to manage local concerns – another linkage to local government leadership which is likely to evolve over time as the nature of a locality changes.

So what can be observed about English local government over time within a tradition of voluntarism?

¹⁰ Chapman and Wood, *Australian Local Government*, 48

¹¹ Bulpitt, *Party Politics in English Local Government*, 1-3

Voluntarism as property and public office

The ideas and beliefs of voluntarism include a strong relationship between property and public office. The equivalence of property ownership with an assumed right to public office is an old class-based idea in Britain that can be traced to earliest times as an agency of local and central power.¹² The Danes, for example, established a governing class of magistrates (*laghe-men* or law men) and their qualification for the role depended on the possession of a *manse* or allotment of land.¹³

Being born into a family with a history of community leadership creates an expectation of public office at a point in time. (This likely derived from the time of Roman occupation where town corporations (*municipium*) with members of a governing body owed their rank and privileges by hereditary birth and from this group elected their magistrates.¹⁴)

The Saxon *reeve* (later to become *shire reeve* or *Sheriff* or *mayor*)¹⁵ and four “best men” represented the town at Hundreds or Shire meetings. In a hereditary system the idea of duty to public office and local property ownership becomes tied to one’s birth and the development of England’s class structure. The threads of this are found in tracing property settlement as reward through loyalty to monarchy, and it is particularly personified in the Henry VIII period in the conflation of holding public office with land by men not of noble rank.¹⁶

The range of local government public offices to suit local needs meant central powers had reasonably efficient means of administering far-flung areas through those who had largely demonstrated efficiency in managing their own property. The local officials responsible for provincial manorial authority were promoted to county Justice roles, in turn taking on administrative and judicial responsibilities and so being of financial importance to central authority. It significantly contributed to status even if the local office such as Sheriff or Justice was considered a burden. The

¹² Thompson, *An Essay on English Municipal History*, 35; Thornhill, *Growth and Reform of English Local Government*, 1

¹³ Thompson, *An Essay on English Municipal*, 35

¹⁴ *Ibid.*, 5

¹⁵ Thompson in *An Essay on English Municipal History*, 54, traces the development of the idea of “mayor” through the Latin pronunciation of “major” as signifying the greatest of the aldermen, leading in the administration of the public purse and local Justice. Jenks in *An Outline of English Local Government*, 179, traces the term also from Latin as either the lord’s bailiff or reeve or else the elected foreman of the leet jury, “*major et jurati*”, the elective idea finally evolving in later English local government.

¹⁶ Stone and Fawtier Stone, *An Open Elite*, 399

reward was to be part of the equation of office, wealth, rank, tenurial position and status within local societies¹⁷. With the linkage of local borough municipal boundaries to parliamentary seats, the value of public office expanded the reach of political power once the position and prestige of Parliament increased. Once a man was aligned to land he was part of the “force that was the fulcrum of government and politics”.¹⁸

As argued earlier in developing a tradition of localism, a tradition of voluntarism links ideas of property as the avenue to political office and political power in a locality, especially where the ability to exercise central power is at a significant geographical remove. In feudal times granting various local self-government measures and a right to uniting as a guild was the trade-off for establishing new communities of traders in chartered boroughs.¹⁹ Land ownership linkages to public office as the basis of government excluded the non-owning group, particularly where it related to obtaining office through co-option or appointment from within a select group such as with closed vestries. Outside of the role of Justices, possession of property as a qualification for voting and eligibility for public office is an enduring idea in England. For example, it found expression in a 1711 Act stipulating property qualifications for members of Parliament.²⁰

It was also present in the development of the guilds and later town charters which led to formalisation of roles such as Aldermen and Mayors. Town charters represented a form of co-operation for the Crown, as guarantors of social fabric, providing stability and continuity, and removing the need for continuous swearing of fealty.²¹

Leadership within guilds derives from guild rules, where access to office is a matter of gaining guild franchise. One borough ordinance ensured that even if burgesses had managed to enter their names on manorial court rolls (and thus gained some voting rights) and control over local area administration, charter ordinances could prevent them taking any active part in municipal affairs:

¹⁷ Carpenter, *Locality and Polity*, 48

¹⁸ *Ibid.*, 616

¹⁹ Jenks, *An Outline of English Local Government*, 180-181; Thompson, *An Essay on English Municipal History*, 92

²⁰ W.A. Speck, “Conflict in Society” in *Britain after the Glorious Revolution 1689-1714*, Geoffrey Holmes, ed., 137 (London: Macmillan & Co, 1969)

²¹ Weinbaum, *The Incorporation of Boroughs*, 19

Also the same mayor, bailiffs, and burgesses, with all and consent, that all manner of burgesses, the which is made burgesses by court-roll and out of the Guild Merchant, shall never be mayor, nor bailiff, or sergeant, but only the burgesses whose names were in the previous Guild Merchant; for the king gives the freedom to the burgesses who are in the Guild, and to none others.²²

Given the merchant origins of guilds, property accumulation then translated into leadership of local government institutions of towns and cities, and entering into the governing practices of those who were elected to lead.

Voluntarism: Patronage and duty

The second matter to be observed is the relationship of ideas and beliefs of leadership with patronage and duty. Post the first period of reform, public office entitlement by freehold tenure and property ownership as a qualification for franchise remained a common feature of local government.²³ It could also be conferred as a right to holding public office if there was a historical connection between land ownership and its relationship to the development of local government.²⁴ In terms of property ownership, the greatest of the local landowners was the head of the county who as Lord Lieutenant appointed by the Crown, organised the militia and “owned” the county’s patronage. As an instance of the value of patronage, the Lord Lieutenant advised the king who to appoint as Justice of the Peace (having already taken advice from leading Justices in the county, thus reinforcing circles of patronage and influence).

Voluntarism also then becomes tied to ideas of public office as duty, where all were expected to perform without remuneration whenever required to do so “for the good of the community” from the Lord Lieutenant and Sheriff down to jurymen to Overseers of the poor and Surveyors of the highway.²⁵ Of course, as the extensive research of Webb and Webb on English local government reveals and as has been pointed out in earlier chapters, there were all sorts of variations as to remuneration across local government institutions in England. The basic principle in accepting no remuneration was that those most able to participate in local government were those whose income or inherited position enabled them sufficient leisure time to do so.

²² Thompson, *An Essay on English Municipal*, 105

²³ Jenks, *An Outline of English Local Government*, 143

²⁴ Thompson, *English Landed Society in the Nineteenth Century*, 17

²⁵ Halevy, “Before 1835”, 20

Patronage was not just the ability to gift office. The linkage of property and duty meant a social duty in the direction of local affairs – “a tenanted estate differs widely from any other species of property...It has...a dignity, and a set of duties, attached to it which are peculiar to itself.”²⁶ Leadership is then linked to the prestige of patronage in the management of local estate, village or nearby town affairs, providing a degree of local political authority.

Payment for this level of public office is then not a consideration. With significant land ownership, surplus wealth and leisure time, it is not difficult to see how an unquestioned obligation developed to perform gratuitous public service as an officeholder, simply because a person could afford to – it was a mark of status to perform the role without remuneration.²⁷ Justices of the Peace by 1921 were entitled to claim wages, but it was a practice that was not followed “...any more than the Member of Parliament, claim(s) his wages. He holds office simply “during pleasure” (of the King or Queen of the day).”²⁸

The practice of exclusion from public office

A tradition of voluntarism assumes that leadership represents all those in a community. If not everyone gets to choose a leader, then leadership only reflects the preferences and demands of a select group when exclusion from public office is made on moral, religious or political grounds.

The matter of character and the right religion counted such that a man had to demonstrate the qualities of being “more discreet and worthy” of all other men in a borough in order to attain the rank of principal burgess and serve on the common council assisting the mayor and bailiffs.²⁹ In the matter of parish and vestry, the same ideas and beliefs existed, reinforced by the creation of an Anglican form of Protestantism post-Tudor. Select vestry members were carefully chosen in some cases to ensure appropriate levels of influence and expertise:

...the (Select Vestry St James’s, Picadilly) custom has been to elect one-third noblemen, or thereabout, one-third gentlemen of rank and members of Parliament, and the other third tradesmen, men of business.³⁰

²⁶ Stone and Fawtier Stone, *An Open Elite?*, 14

²⁷ Stone and Fawtier Stone, *An Open Elite?*, 14; Webb and Webb, *English Local Government*, Vol. 4, 350-351

²⁸ Jenks, *An Outline of English Local Government*, 138-139

²⁹ Thompson, *An Essay on English Municipal History*, 107

³⁰ Webb and Webb, *English Local Government*, Vol 1, 213-214

When in parish vestries it became apparent selection had not been so careful, parliamentary debate in 1697 proposed to remove the select vestrymen in favour of a representative body of “the chief and most discreet and able men”.³¹ The issue of religious exclusivity from Tudor times excluded select vestries that did not pass the “sacrament test”, again, a reflection on the character of the vestrymen. Not all could meet the test in 1635 of being a:

Selected Vestry of twelve persons, grave and ancient inhabitants, men of approved, honest, and good discretion, and (which is ever regarded in their choice) men that are known to be well addicted to the rite and ceremonies of the Church of England, and no way prone to faction.³²

Although a 1663 Act of Parliament regulating religious exclusivity expired in 1670, the idea lived on as a means of exclusion until the 1834 reforms when those men who occupied parishes and corporations no longer had to be Anglican.³³

Parliamentary debates during the 1835 Reform Bill period indicated a shared common ground as to the crucial groups of characteristics that town councillors needed. They were preferred to have at least two out of three of the groups: to be men of station or respectability, men of substance or property or wealth, and/or men of intelligence or education.³⁴ Immediately the ideas of property and position are evident as having passed on from the previous eminent position, that of the Justices. A candidate had to be on the burgess roll, the owner of rateable property within a radius of the borough and have paid rates for a set period. If this were satisfied, he then had to own real or personal property to a set level. If elected, the service was unpaid and meetings were held during normal working-hours, thus preventing employees from attending and favouring the self made businessman, professional or person of independent wealth. With the 1800s reforms and the creation of elected councillors to local government, what sorts of people were able to participate? The establishment of county councils may have been seen as “the dethronement of the squirearchy”, yet in practice chairmen of the new councils were usually nobility and the landed gentry.³⁵ Property and social status was again the key in finding the “fit and proper persons” who met ideals of “widely respected citizens of standing”.³⁶ At

³¹ Webb and Webb, *English Local Government*, Vol 1, 251

³² *Ibid.*, 242

³³ *Ibid.*, 194-195, 242

³⁴ Hennock, *Fit and Proper Persons*, 308

³⁵ Thompson, *English Landed Society in the Nineteenth Century*, 325

³⁶ Hennock, *Fit and Proper Persons*, 21

the same time, as Lord Melbourne predicted, the non-conformists and non-Tories of the merchant class began to take leadership positions thus shifting the focus from the landed interest of old to the industrial and township interests of the new. The ideas of respectability and property endured.

The polite fiction of local government as non-political within a tradition of voluntarism is contestable. At times a man's politics excluded him from public office. The linkage between local government as a borough and the borough's capacity to send a person to Parliament to represent the borough's interests politically influenced both levels of office-holders. The conversion of "scot" and "lot" men into burgesses and therefore parliamentary voters was a useful tool in influencing electors.³⁷

That the principle of party government was not to be extended to local government originated in the early struggles between the Whigs and Tories. Being partisan as Justices of the Peace signalled acceptance of the policies of the national governing elite and this in turn created local landowners who not only were "eminent individuals possessed of power over a neighbourhood" they were transformed into a "united ruling social stratum".³⁸ Being partisan was not without risk for either Justices of the Peace or the elected members of corporations and boroughs as various monarchs over a period of two hundred years sought to remove and replace elected local government officials who as borough officials choose who was sent as representatives to Parliament, and Justices and those able to practice law as a means of influencing juries.³⁹

It is only after 1745 in a political settlement between the Whigs and Tories that the idea that to be a Justice was to be a member of a party fell away, and was replaced with the idea that, like judges, they needed to symbolise the impartiality of the law, be disinterested, free of control from either the reigning monarch or his/her ministers.⁴⁰ Despite the political influence that was still likely retained, in 1745 when remodelling county benches, the qualifications for appointment preferred that:

³⁷ Webb and Webb, *English Local Government*, Vol 1, 242

³⁸ Norma Landau, *The Justices of the Peace, 1679-1760*, (London: University of California Press, 1984), 14

³⁹ Stone and Fawtier Stone, *An Open Elite?*, 269, 401; Thompson, *An Essay on English Municipal History*, 189

⁴⁰ Landau, *The Justices of the Peace*, 125

In all Commissions of the peace, hereafter to be issued, all proper Regard shall be had to Gentlemen of Figure and Fortune, well-affected to his Majesty's Government, without Distinction of Parties.⁴¹

The appearance of local government as non-party/non-political was expressed through reform Bills not being introduced by the important statesmen of the day in Parliament, rather lesser players such as the Chief Commissioner for Woods and Forests. Parliament regarded local issues as the province of country gentlemen aided by locally appointed officials such that where problems occurred, committees and bodies were appointed. There is the perception that later reforms were achieved not by any “splendid triumph of actors of the state”, rather patient behind the scenes work by particular individuals as the hallmark of English reforms.⁴² Even in 1871 the polite fiction of non-political local government not being the stuff of party politics or that which impinged on the political existence of a government remained: “...you have, upon the whole, concord and harmony between the two sides of the House.”⁴³ This ignored the reality that those involved in municipal matters with the reforms in the nineteenth century were part of the political struggles between Tory and Whig reformers. Commercially and industrially successful middle-class men were seeking recognition of their new status and no longer tolerant of the political and religious exclusiveness of Tory-Anglican dominated corporations. They used political pressure to demand a more open system of government and a share of power in the practice of local government, thus voiding for a time the idea of local government as non-political.

The first period reforms that excluded men below a certain property level meant that their concerns then had to be mediated through those who did qualify if it was in the latter's interests to do so. Where landed interests were not those of the excluded, it becomes easy to see how the economic and social problems prior to the second period created significant dilemmas for local government practices of parishes and corporation leaders and led to central intervention reform. Exclusion could also occur if a man did not have sufficient property to enable him the capacity and leisure to attend to public matters and this represented a significant dilemma when the poorer middle and labouring classes aspired to local leadership during the period of the second reforms. The issue of property franchise will be dealt with in Part IV.

⁴¹ Landau, *The Justices of the Peace*, 108

⁴² Hammond, “The Social Background 1835-1935”, 39

⁴³ *Ibid.*

Turning now to the local government practices of who got to be leaders, the role of the Justice of the Peace is first considered, and then briefly that of roles such as Mayors, Aldermen and Councillors. The weight of the discussion on the side of the Justice reflects the period of time when the colony of Van Diemen's Land was settled.

Voluntarism and the role of the Justice

Why was the role of the Justices of the Peace so important? Effectively they served to remove much of the administrative and legal burden from central government for localities. The role of the Justices of the Peace evolved from mediaeval times. In 1195 Knights were assigned to enforce of the oath of peace. Within a century they had become guardians of the peace and during the reign of Edward III, they were transformed into royal nominees, empowered by statute to hear and determine felonies. By end of the fourteenth century, the present title of Justices of the Peace was created as "good men and lawful" assigned to keep the peace.⁴⁴

English society has the particular genius of assimilating self-made and capable men into positions of power and status, thus ensuring a continual refreshing of the ranks of the elites and ensuring ambitious men would aspire to social prestige, particularly through land ownership, and thus be eligible for offices such as the Justices. In the fifteenth century a commission as a Justice meant that the candidate would possess strong ties to their local community through their family history of local leadership and land ownership. Office holding and land were a particular hallmark of Henry VIII's period in creating a landed gentry not averse to serving on the county benches and thus ensuring an administration loyal to central policies. Being appointed to the role of the Justice enhanced the status of the landholder considerably:

It is the custom for poets and novelists to speak of the squire as though were, *quâ* squire, the "God Almighty of the country side". This is a mistake. Since the disappearance of feudal rights in the War of the Roses, the mere landowner has had no other advantages than those which wealth and social status could give him. It was as Justice of the Peace and not as squire that he reigned. Let him but be obnoxious to the Government, let him be excluded from the Commission of the Peace, and his power was gone. The governing caste in English country life since the Reformation has not been a feudal but an official caste.⁴⁵

⁴⁴ Josef Redlich and Francis W. Hirst, ed., *Local Government in England*, Vol. 1, (London: Macmillan and Co., Limited, 1903), 12

⁴⁵ Jenks, *An Outline of English Local Government*, 135-138

The defeudalisation of local government was achieved through Justices having the power to set up new authorities as well as appoint overseers to them, as a way of removing the powers of the old manorial Court Leets and implementing the Tudor central policy of a unified and organised administration.⁴⁶ A Justice was likely to be legally trained or demonstrate sufficient training as to be able to administer county matters.⁴⁷ This position in Britain, particularly from the early Elizabethan times onwards, ensured that the landed monopolised government in combining social and official power, through a long line of people automatically laying claim to political leadership in inheriting “privileges, franchise and liberties”.⁴⁸

Unlike their European legal peers, and allowing for the office of Metropolitan Justices who acted under instructions from the government of the day, English local magistrates were to be found in the countryside, their mansions dominating the farmlands and forests, with their acceptance of an obligation that owning a local estate meant unpaid work in administering their local communities.⁴⁹ The administrative powers of the Justice affected the tax burden of their communities. When taxpayers achieved the franchise, those who held the position of Justice then attained a measure of political power being also able to influence voter behaviour.⁵⁰ As a “country life in business”, Justices acted as both judicially and administratively in licensing public houses, controlling the administration of Poor Laws, the building of bridges and roads, managing prisons and houses of correction and all other manner of local government concerns.⁵¹ Leading the second period of reform when the institutions of parish and corporation began to fail to address local social and economic problems, they appointed men to newer single purpose institutions in an attempt to solve such problems. In the matter of local policing, magistrates raised with the aid of the sheriff a constabulary force for the county, a *posse comitatus*, to quell any disorder.⁵²

⁴⁶ Redlich and Hirst, *Local Government in England*, Vol. 1, 25

⁴⁷ Landau, *The Justices of the Peace*, 318; Stone and Fawtier Stone, *An Open Elite?*, 246-247, 262, 269

⁴⁸ Edmund Burke, “The Evil of Revolution” in *Reflections on the Revolution*, (London 1790 Facsimile edition Penguin Books, 2008), p. 19

⁴⁹ Landau, *The Justices of the Peace*, 1

⁵⁰ *Ibid.*, 9

⁵¹ Stone and Fawtier Stone, *An Open Elite*, 274

⁵² Halevy, “Before 1835”, 27

The country-based elite was able to maintain a strong grip on power and influence well into the nineteenth century through the web of institutions and positions all involved with the administration of the locality and its society. Burke described the qualities of one example:

Immersed in the greatest affairs, he never lost the ancient native generous English character of a country gentleman. Distaining and neglecting no office in life, he was an ancient municipal magistrate, maintaining the police, relieving the distresses and regulating the manners of the people in his neighbourhood.⁵³

By 1835 England was governed and administered by a gentrified class of wealthy landowners, acting as unpaid members of the Houses of Parliament and as unpaid Justices of the Peace. They were responsible for the peace and harmony of counties. Drawn from an educated leisured class, it was assumed that their social and financial status created an automatic disinterest and competence inherent in undertaking their role. Where once a manner and an ability to participate in the London season was a singular qualification for a propertied gentleman to succeed as a Justice, the greater gentry's lands and status as Justices bound them to the communities within and around their lands, reinforced with displays of power, both patriarchal and judicial.

After the first period of reform and leading up to the second, the Justices of the Peace personified the connections between property, duty, patronage and political power. Such was the Justices' independence, the central government was not always able to ensure they would enforce their laws if they saw that local conditions were not suitable. The Speenhamland decision on labourer rates and the poor relief set such a precedent which once applied across a number of localities, had disastrous financial impacts on parish ratepayers and the value of land, enabling a Whig majority in Parliament to use the state of local government to gain political power.

The style and behaviour of their administration in exercising their office was very much in response to the local conditions. Novel caricatures of petty rural tyrants drew on real life as did a concerned 1748 pamphleteer:

Any booby is invested with the ensigns of magistracy, provided he has as many acres of land as are necessary to qualify him under the Act...Thus, they are nominated by dint of estate or ministerial influence, without any regard to their knowledge, virtue, or integrity...After this manner in every county we

⁵³ Edmund Burke quoted in Web and Webb, *English Local Government*, 361

have ignorant petty tyrants constituted to lord it over us, instead of honourable, ingenuous, upright, conscientious, learned, and judicial magistrates.⁵⁴

This is not to lay claim that all Justices acted in this manner as there is evidence of rural Justices carrying out their role of local leadership with honour and fairness but the quote does illustrate concerns that the property connection with leadership was not always a guarantee of the quality of the occupant to meet the demands of the position. The concerns expressed in 1748 were still present in 1824. The Webb and Webb exploration of Vestry Minutes of little towns and the larger rural parishes revealed “numerous instances” of local squires and resident Justices who had “quietly and benevolently” acted as unofficial leaders in the parish, attending meetings and taking on extra roles in order to ensure reforms were implemented, donating land and materials where needed by the local community. Such men were noted for providing standards of accountability and transparency in the provision of both official and unofficial assistance to their communities in negotiating at other administrative, political and legal levels when needed.⁵⁵

By the mid-eighteenth century the position and qualities of the Justices as local leaders was changing. Purchase of a small estate and appointment as a Justice was no longer a guarantee of leadership of the local community, of local ties or legal ability. Mid-eighteenth century Justices in remote areas of Sussex lived in fear themselves of smuggling gangs burning their properties should they take action against them. Similar problems arose across England with corn price riots, suppressing the 1745 Jacobite rebel army, enforcing the 1757 Militia Act in Yorkshire and the Gordon rioters in 1780. Justices without sufficient force and prestige to back up their judgments were powerless and more so where they lived in properties remote from market and greater towns where “leading gentlemen” in the neighbourhood could call on sufficient loyal tenantry to protect property from the mob.⁵⁶ The absence of resident “leading gentlemen” tended to occur in those places most prone to social disorder. Both the villages that were beginning to be crowded with a “turbulent population of coalminers or potters, stockingers or weavers” and the “miles of unregulated hovels and mean streets” of chartered municipalities lacked

⁵⁴ Pamphlet of 1848, quoted in *Morning Chronicle*, 3 December 1824 quoted in Webb and Webb, *English Local Government*, Vol 1, 346

⁵⁵ Webb and Webb, *English Local Government*, Vol 1, 361

⁵⁶ Landau, *The Justices of the Peace*, 291-292

a resident Justice to keep order in times of riots.⁵⁷ Justices equally supported the interests of their fellow landed elites when there was any suggestion of threats to English liberties, such as the introduction of a “prying” national police force or moves by Parliament to control press criticism, thus weakening their political stocks with the central government.⁵⁸

Towns were expanding into the country and industry was progressing at such a rate that the “country gentlemen” whose estates ensured sufficient wealth and prestige within their community were fast disappearing. There was the practice of not admitting the new wealthy captains of industry to the Bench through reasons of religion (being non-conformist) or political tendency (Whig or Radical).⁵⁹ Even men capable of filling the role were simply not willing when the prestige of being a Justice declined. Rural Justices were described unsympathetically:

A man just arrived at the age of maturity, having left the University where a common degree requiring some knowledge, some examination...presents insurmountable difficulties to a mind absorbed in the sole consideration of dogs and horses...comes to reside in the family mansion – applies to the Lord-Lieutenant of the County to be put in the Commission of the Peace, and takes out his Dedimus to punish and imprison his fellowmen as a companion to his certificate to kill game – attends the next Quarter Sessions, and makes the declaration that he will not upset the pure and reformed established religion of which he perhaps knows as little – takes his seat on the Bench with the perhaps equally wise Justice. This...is the very common English education for a Justice of the Peace.⁶⁰

In one division of the Justice Bench, twelve of the twenty five Justices listed were noted as not even having “noteworthy” residences or earning their income from land owning. In one 1751 nomination for the Bench, the man was:

[Z]ealous and active on all occasions when the interest of the Government is concern’d[sic] he is a man of great substance...a very honest one, we want justices of this sort, in that part of the County...Shepherd ‘tis true is a Brewer, but there is some of that profession about Deptford, that are in the Commission and make very good justices...⁶¹

When the Duke of Chandos was canvassing gentlemen in his neighbourhood to find a replacement Justice, all refused and he was left to appoint a local distiller, “but one

⁵⁷ Webb and Webb, *English Local Government*, Vol 1, 583

⁵⁸ Stone and Fawtier Stone, *An Open Elite*, 413

⁵⁹ Halevy, “Before 1835”, 21-26

⁶⁰ *Letter to the Right Honourable Lord Brougham and Vaux on the Subject of the Magistracy of England*, 5, (1832) quoted in Webb and Webb, *English Local Government*, 347-348

⁶¹ B.L., Add. Mss 35063, F. 307 Duke of Dorset to Hardwicke, 12 July 1751 quoted in Landau, *The Justices of the Peace*, 317

of a [settled] Reputation, and void of all manner of Reproach”.⁶² Even the Tudor qualification of “more discreet and worthy” was watered down to the point gentlemen of lower status were admitted, right down to the point that clergy were finally appointed. One was described as a cleric regimental chaplain, possessed of a living of £100 per annum, and “a little touched in the head”.⁶³

Appointing Justices from social groups who trod the border of gentility failed to solve the problem of finding suitable candidates. Even so, compared to the conditions outside of the UK, local government administration by unpaid Justices was considered superior to that of salaried officials in Europe.⁶⁴ It had to be admitted by the reformer Chadwick in 1834 that the role of the Justice was a valuable one:

[T]he majority of persons who have dispauperised parishes and introduced those beneficial amendments of the mode of administering relief, which the Legislature will probably extend to the all parts of the country, and render permanent, are magistrates.⁶⁵

Nonetheless the weight of statutes that they had to administer and the competencies to do so resulted in eventual reform and paring back of their administrative and judicial powers. By 1872 paid magistrates with professional legal backgrounds came into being, with a minimum five years at the Bar qualification introduced in 1835.⁶⁶ Payment meant a loss of electoral and political influence by being barred from elected office and exercising overt influence. Stipendiary magistrates, while they operated in a locality, lacked the capacity to be the natural leaders of a community as unpaid Justices had been.

For the unpaid Justice it took until 1906 for legislation to be passed to abolish the property qualifications required for the appointment of county Justices.⁶⁷ By then the position was becoming a shell of its former political, social and economic glory. Local leadership had passed into the hands of elected local government members.

⁶² Landau, *The Justices of the Peace*, 140

⁶³ *Ibid.*, 142

⁶⁴ Halevy, “Before 1835”, 27-29

⁶⁵ Edwin Chadwick, *First Report of the Poor Law Enquiry Commission 1834*, Appendix A, 167 quoted in Webb and Webb, *English Local Government*, Vol 1, 363-364

⁶⁶ Landau, *The Justices of the Peace*, 362

⁶⁷ Jenks, *An Outline of English Local Government*, 138

Voluntarism and the role of the elected local government official

Leadership roles of the Mayor, Aldermen and Councillors (all in various guises and differing roles and responsibilities, depending on the town charter) were established in towns and cities by guilds. They continued to exist alongside the authority of the Justice and the division of towns into parishes. Such roles were not always popular as they had a limited view of whose interests were to be served. The problem of their manipulation by the Tudors and later monarchs to check the growing independence of the House of Commons caused landed elites to prefer the role of Justice.⁶⁸ Townships were not considered places for profit as the 1833 Royal Commission found:

It has become customary not to rely on the Municipal Corporations for exercising the powers incident to good municipal government...They have the nominal government of the town; but the efficient duties, and the responsibility have passed to other hands.⁶⁹

The social and economic changes that led to the Royal Commission and various legislative changes led to the transformation of the old parish vestries and municipal corporations into the new municipal borough. With their failure to deal with the rising town problems prior to the second period of reform, by the end of the nineteenth century the municipal borough was redefined as were the roles of elected Mayors, Aldermen and Councillors.⁷⁰ They served to allow the entry of the non-conformists into public office and to provide in many cases significant improvements in town services where parishes and incorporations had failed. The steady reforms to local government over the period of the nineteenth century enabled elected local government officials to act and react in the innovative ways needed to accommodate changing towns and cities.⁷¹

While charters were reaffirmed, there was the addition of a clear administrative role effectively standardised across the municipal boroughs of Britain. The original linkage of Parliament and municipal borough through the general role of town charters that enabled sending a representative to Parliament remained. The linkages with property endured, as owning property in the locality was the qualification for

⁶⁸ Jenks, *An Outline of English Local Government*, 183

⁶⁹ *Ibid.*, 182-183

⁷⁰ *Ibid.*, 186-191

⁷¹ Heffer, Simon, *High Minds: The Victorians and the Birth of Modern Britain*, (London: Random House Books, 2013), 710-712. See also Hennock, *Fit and Proper Persons* for the comparison of responses of the Councillors of Birmingham and Leeds.

election and this idea endured until the early twentieth century. In 1835 Conservative opinion was advocating that:

No system of Municipal Government...will promote the object for which it alone it ought to be designed...unless its direct tendency be to commit the management of Municipal affairs to the hands of those who from the possession of property have the strongest interest in good government...⁷²

The difficulty over the following years was not only persuading “gentlemen” to come forward to fill the elected roles. Economic problems led to demands for efficiency and effectiveness at the same time rising rates were being charged to meet policing, sanitary and other demands in the modernisation of English cities. Ideas and beliefs of leadership had to ride the tensions of encouraging large businessmen or small shopkeepers into municipal life, as well as the overt emergence of party political candidates.⁷³ The dilemmas of social and economic change had begun to shift the practice of local government away from ideas that linked leadership with locality and property toward ideas and beliefs of leadership that is more inclusive of gender and social and economic position. One hundred years later, the transformation of ideas of local government, and particularly that of leadership would have been hotly disputed, if not entirely rejected, by the Parliament of 1835:

(L)ikely to remain firmly established as the most effective instrument of social welfare in our national life... The forms of our system can be changed almost beyond recognition, but not its substance. The spirit of English local government depends on three things: the right of the whole community to elect at periodic intervals a council of their own choosing; an opportunity for every citizen to participate in the work of the council; and the right of free discussion and criticism. If these things are not preserved the system will quickly fade and die.⁷⁴

Conclusion

Tracing the development of a tradition of voluntarism in local government in Britain reveals interlinked ideas of property, locality, political power, patronage, duty and around all this, local leadership. The Justices were independent from supervision by central authority for much of the period between the first and second local

⁷² Sir Robert Peel, 3 *Hansard* XXVIII, 571, 5 June 1835 quoted in Hennock, *Fit and Proper Persons*, 311

⁷³ Bulpitt, *Party Politics in English Local Government*, 7; Hennock, *Fit and Proper Persons*, 330

⁷⁴ W.A. Robson, “The Outlook” in *A Century of Municipal Progress 1835-1935*, ed. Harold J. Laski, W. Ivor Jennings and William A. Robson, 464 (London: George Allen & Unwin Ltd, 1935)

government reforms, even allowing for periods of exclusion for reasons of Whig and Tory politics. The qualification with land created a lasting belief of how local leadership was to be signified. The local government practices of Justices were suited to localities and in the absence of strong central government, shaped English society. The old idea of absolute independence from supervision was challenged by the increasing urbanisation of Britain in the 1830s.⁷⁵ Further, in serving the interests of property and being so narrowly restricted, the Justices were unable to accommodate the dilemmas of social and economic change that challenge ideas of leadership as successfully as the elected local government officials that replaced them.⁷⁶ The dilemmas of social and economic change challenged local government practice such that the long reign of the Justice declined to be replaced by elected local government officials. Ideas of leadership once linked with property and locality have had to be reassessed as beliefs in what makes a good municipal leader have changed local government practice towards more inclusive practices.

⁷⁵ Hennock, *Fit and Proper Persons*, 6

⁷⁶ Birch, *Representation*, 15; White, “Is voluntarism in decline?”, 34-43; Mohan, “Voluntarism, municipalism and welfare”, 57

CHAPTER 7 CONCLUSION

In exploring the ideas and beliefs of an English local government tradition of voluntarism, local government practices leading up to the second reform period of the nineteenth century were dominated by ideas of property, locality, political power, patronage, duty and local leadership. The dilemmas of social and economic change effectively ended the long period of effective local leadership by the Justices and replaced them with elected local government officials. Much as the Tudor period co-opted the institution of the parish for civic duty (see Chapter 9), so did the reforms of the nineteenth century do the same with the public offices laid out in the charters of towns – Mayor, Aldermen and Councillors. With the new form of municipal government faced with increasing demands for service delivery and improvements, the tradition of voluntarism has slowly changed ideas and beliefs of leadership with more inclusive practices.

The question then is how did local government leadership develop in the colony of Van Diemen's Land and afterwards as a State? What conditions affected ideas and beliefs of leadership and how were they expressed in local government practices? The next chapter will consider the case for a Tasmanian voluntarist local government tradition.

PART III: VOLUNTARISM

CHAPTER 8: THE CASE FOR A TASMANIAN TRADITION OF VOLUNTARISM

CHAPTER 8 INTRODUCTION

By exploring a wider historical basis for a tradition of voluntarism, a better understanding is created of the dilemmas that challenged local government leadership over time leading to consideration of what happened in Van Diemen's Land. Chapter 8 seeks to continue the argument that the early settlers of the colony of Van Diemen's Land carried with them ideas and beliefs of a voluntarist tradition from the period between the first and second periods of reform, thus shaping local government leadership practices in local government. The nature of the society that was created is of first interest – what sorts of people came to Van Diemen's Land? If we argue they were people whose ideas and beliefs were more attuned to the period prior to the second reforms in England, how did the leadership of the Lt-Governors challenge such ideas and beliefs? Turning to later Tasmanian society, did its early composition and later development affect ideas of leadership in the practice of local government and therefore responses to reform? The evidence is examined for the ideas and beliefs surrounding leadership in local government and how it developed.

Section 1: Local leadership and the Lieutenant-Governors

In exacting many of the most wholesome restrictions on the Prisoners, it is frequently necessary to trench upon that unrestricted liberty which is claimed by the free Population.¹

Introduction

This section outlines how the development of colonial society by the strongly centralist Lt-Governors challenged ideas and beliefs of voluntarism faced with the problems of defending people's lives and properties. It will be used later to argue that their strongly centralist leadership encouraged strongly localist landholders to follow a policy of decentralisation in the colonial State Parliament, impacting on the development of local government practice in later decades.

Colonial Leadership Styles

The quality of colonial leadership in Van Diemen's Land varied from inept to "venal and rapacious" to highly moral and efficient, acting either as a centralist or trying to conciliate an easy relationship with the free settlers.² The early years of the colony relied on convict labour and when such men absconded, problems of policing followed. This period of Tasmanian history is already well researched without repeating details of various events, other than to say the property and lives of the free settlers were under real threat in the absence of effective policing.³ Suffice to say,

¹ *Historical Records of Australia III*, Arthur to Hay, 23 March 1827, 683

² Alex C. Castles, *Lawless Harvests or God Save the Judges: Van Diemen's Land 1803-55, a legal history*, (North Melbourne: Australian Scholarly Publishing, 2003), p. 45. See also Bennett, *Reluctant Democrat: Sir William Denison in Australia 1847-1861*; Sir William Denison and Lady Denison, *Varieties of Vice-Regal Life (Van Diemen's Land Section)*, ed. R. Davis and S. Petrow, (Sandy Bay: Tasmanian Historical Research Association, 2004); Fitzpatrick, *Sir John Franklin in Tasmania 1837-1843*; Levy, *Governor George Arthur*; Leonie Mickleborough, *William Sorell in Van Diemen's Land: Lieutenant-Governor, 1817-24. A Golden Age?* (Hobart: Blubber Head Press, 2004); A.G.L. Shaw, *Sir George Arthur, Bart: 1784-1854*, (Carlton: Melbourne University Press, 1980)

³ See for example, Alexander, *Tasmania's Convicts*; James Bonwick, *The Bushrangers; Illustrating the Early Days of Van Diemen's Land*, (Melbourne, 1856, Facsimile edition, Hobart: Fullers Bookshop, 1967); Ian Brand, *Penal Peninsula: Port Arthur and its Outstation, 1827-1898*, (West Moonah: Jason Publications, 1978); James Boyce, *Van Diemen's Land*; Castles, *Lawless Harvests or God Save the Judges*; Robert Cox, *Baptised in Blood: The shocking secret history of Sorell*, (North Hobart: Wellington Bridge Press, 2010); A.G.L. Shaw, *Convicts and the Colonies: A Study of Penal Transportation from Great Britain and*

the problem persisted until the arrival of Lt-Governor Arthur and the implementation of his strongly centralist measures in dealing with law and order issues. A limited number of Justices existed in the colony but were ineffective in the absence of a suitable police force able to deal with the isolated mountainous terrain of the island. As soon as large landholders were approved in isolated areas around the State, they were likely to be admitted to the Commission of Justice.⁴ The use of informants and large rewards were the most useful devices for apprehending the worst offenders as was isolating them from support.⁵ Given the distance between the settlements of Launceston and Hobart and between the island and the colony of New South Wales, communication and settlement of legal matters (other than civil) was a difficult issue involving a deal of expense and loss of time. Charges against convicts were being dropped rather than incurring costs of prosecution by needing to be sent the New South Wales colony to be dealt with.

Van Diemen's Land was granted separate status as a Crown Colony in 1823 although a separate legal system was still to be granted. A year later one hundred and two of the most prominent free settler landholders and merchants of the colony were petitioning for Van Diemen's Land as a separate and independent colony, asking (unsuccessfully) for "the very valuable and important institutions" being extended to them by the Royal Charter, that is, the system of law and order as they experienced in Britain through complete independence.⁶ Apart from the early excesses of military rule where free settlers could be flogged as if they were convict, both Lt-Governor Sorell and Davey had been very popular with the free settlers – "to ask was to have" according to Melville.⁷ Davey had conceded trading rights to individual settlers in 1813, moving away from the Commissariat as the sole economic instrument for trade. Both were very liberal with land grants and very popular with

Ireland to Australia and other parts of the British Empire, (Melbourne: Melbourne University Press, 1977)

⁴ P.L. Brown, ed., *Clyde Company Papers: I Prologue 1821-35*, (London: Oxford University Press, 1941), 21, 229

⁵ Castles, *Lawless Harvests or God Save the Judges*, 60

⁶ Melville, *The History of the Island of Van Diemen's Land*, 10

⁷ Melville, *The History of the Island of Van Diemen's Land*, 11

these prominent free settlers possessing a single-minded and sufficiently ruthless streak to make a fortune in Van Diemen's Land.⁸

The arrival of Lt-Governor Arthur signalled a shift in how rights and liberties and the rule of law were to apply in the colony and how patronage was to be extended.

Arthur, a strong Christian Evangelical, wanted the colony's free settlers to develop into the sort of landed gentry who, respectable and God-fearing, would be an example to lower classes in opposing corruption, favouritism, jobbing, drunkenness and immorality – an ideal of the country Justice.⁹ In order to achieve this, he expected, for the long term good of the colony, free settlers to acquiesce to his management methods:

In exacting many of the most wholesome restrictions on the Prisoners, it is frequently necessary to trench upon that unrestricted liberty which is claimed by the free Population. Just laws and regulations, however, are only felt as severe by those who offend them; but however reluctant to acknowledge it, the whole island must be considered in the light of a Gaol, and the Free Inhabitants, whether Emigrants or Prisoners free by Servitude, or Emancipation, should be looked upon as Visitors, and liable to submit to the Rules established for the general peace and order of the Colony.¹⁰

However, whereas in England a propertied gentleman was able to exercise a deal of influence in his locality and to wield degrees of political power both locally and in Parliament, in Van Diemen's Land Arthur was *the* central source of influence and legal redress. If any free settlers had arrived with an inherent distrust in central authority, it would have been strengthened from this point onwards. Government, while still under military rule, now included a judicial establishment of Chief Justice and Attorney General, a Lt-Governor answerable to the Colonial Office in Britain and an appointed Executive and Legislative Council. The Executive and Legislative Council met in camera presided over by Arthur. Appointed members (officials and free settlers) were sworn to not reveal the proceedings. Settlers were advised of government deliberations and decisions via the *Hobart Town Gazette*. As the Lt-Governor, Arthur had the power to initiate Bills. For the first three years Bills could be passed into law if only one other member agreed with him. He also retained

⁸ Edward Lord was one of the most prominent and best examples of what could be achieved. See E.R. Henry, "Edward Lord: the John MacArthur of Van Diemen's Land", *Tasmanian Historical Research Association Papers and Proceedings*, 20 (June 1973): 98-108

⁹ Shaw, *Sir George Arthur*, 94

¹⁰ *Historical Records of Australia III*, Arthur to Hay, 23 March 1827, 683

complete control over finances and customs. Arthur's preference for using proven military or retired officers for government appointments meant the island's military officers were "composed of themselves a little nest of social friends", adding to ill-feeling between him and the substantial free settlers who had expected such patronage to be accorded to them. The loss of patronage added to difficulties for free settlers when in conflict with military officers, particularly when it came to supplying the Commissariat, the key economic instrument of colonial exchange and trade.¹¹ In 1827 he instituted a system of Police Districts, each one managed by an appointed Police Magistrate and chief constable answerable solely to Arthur and paid out of the Colonial purse.¹² Again, patronage was exercised but not by those in the colony who felt they should have had some degree of political influence on appointments to government positions, even though in reality it was in the gift of the colonial governor.¹³

The officially nominated members of both the Executive and Legislative Councils were not elected and were chosen by Arthur as the sort of respectable colonists who were likely to reasonably support his policies and laws. This continued when later rules were changed to Arthur needing a majority vote.¹⁴ They also met Arthur's exacting requirements of respectability. Arthur concurred with the previous Lt. Governor Sorell's opinions that the colony was not yet sufficiently advanced for a legislative assembly, advising against it in correspondence with the Colonial Office. Van Diemen's Land was still insufficiently "advanced in colonization, population and wealth" and the population "possessed a disparity of elements in proportion for composing a representation of the people".¹⁵ (Convicts made up 87 per cent of the population at this time.) Demands for a representative assembly continued during Arthur's term, one proponent claiming that once such a legislative assembly was in place, "every reasonably desirable blessing will flow."¹⁶

¹¹ Melville, *The History of the Island of Van Diemen's Land*, 3

¹² Burn, *A Picture of Van Diemen's Land*, 10; Castles, *Lawless Harvests or God Save the Judges*, 132

¹³ A. McMartin, "Aspects of Patronage in Australia, 1786-1836", *Public Administration*, XVIII, no. 1 (March 1959): 326, 337

¹⁴ Levy, *Governor George Arthur*, 42

¹⁵ Arthur to Huskisson, 5/7/29, Historical Archives Vol. 4, quoted in Levy, *Governor George Arthur*, 41

¹⁶ *Launceston Independent*, 4 June 1831

In 1831 stipendiary magistrates were appointed to Police Districts, again causing ill-feeling with those prominent settlers who lost the post of unpaid Justice in the area in favour of one of Arthur's appointees or those who were not granted this role and felt it was their due as gentlemen, respectable and propertied. The magistrates were able to recommend whether or not free settlers' behaviour was sufficiently respectable and law abiding to get convict labour, they noted the development of land grants and they kept records of everyone, including their movements and activities, whether convict or free in the Police Districts. Arthur saw the settlers as auxiliaries for the penal system of punishment and reform but the free settlers resented being responsible for the behaviour of convicts. This is no surprise given a rather unflattering portrait painted of them:

It is a lamentable fact, that a great portion of those who are entrusted with assigned servants are dissolute in their habits, and depraved in their principles, and rather hasten than avert the final ruin of those around them.¹⁷

So successful was the magistrate system of complete control that it was reported:

By this system, life and property have been rendered so perfectly secure, that settlers do not give themselves much trouble about locking doors or fastening windows, whilst the traveller proceeds, at all hours, unmolested, from one end of the island to the other.¹⁸

Further resentment was created where police magistrates or the convict constables in rural areas acted corruptly – free settlers were inhibited from complaining due to the police powers over who were assigned valuable convict labour.¹⁹ A number of those appointed as magistrates were, as late as 1836 “very limited in their knowledge of the law”, making wrong decisions or imposing inordinate penalties, or worse, using the courts for their personal disputes.²⁰ Class-based distinctions existed in the colony with respectable free settlers objecting to being put on the same level with convicts through such early practices of the Police District Sunday musters by convict Constables. Being subject to Arthur's system of discipline was felt to be something which gentlemen “should not put up with”.²¹

¹⁷ Molesworth, *Sir William Report from the Select Committee of the House of Commons on Transportation*, London 1838, Facsimile edition, Adelaide, Libraries Board of South Australia, 1967, 34

¹⁸ Burn, *A Picture of Van Diemen's Land*

¹⁹ Petrow, “Policing in a Penal Colony”: 383

²⁰ Levy, *Governor George Arthur*, 52-54; Melville, *The History of the Island of Van Diemen's Land*, 168-172; Shaw, *Sir George Arthur*, 72

²¹ Shaw, *Sir George Arthur*, 72

It was also in 1831 that changes were made in the distribution of Crown land. To the free settler, Van Diemen's Land was the opportunity to create wealth and attain respectability as another unflattering portrait describes them:

The mercantile classes are animated by an avaricious, I should say, voracious, spirit of money-getting which engenders jealousy and ill-will where there is the least collision or interest or chance of rivalry; these are the democracy of the colony, proscribed at Government House; and hostile to all the measures that emanate thence.²²

The problems over land titles threatened wealth creation and maintenance and the blame for this was sheeted home to the colonial administration. The 1829 report of the Land Commissioners appointed by Arthur revealed significant shortcomings of the land grant system. The resultant Journals were a "handbook on the art of defrauding the Crown in land" resulting in the change to the Ripon system.²³ While it reduced the social and economic influence of Arthur by removing part of his patronage, it also meant that the Crown could raise monies by land sales.

Unfortunately by then all the best land had been given away and the colony was suffering from economies placed on colonial government resources from the collapse of English wool sales. In 1832 the Caveat Board was established to settle land disputes and confirm titles. Once titles were in place Arthur would be able to collect quit rents from the free settlers as a means of financing the Colonial budget. This area of colonial management could be best described as incompetent from the first that the colony was established.²⁴ Arthur compounded the problem, and for his successors, by not issuing titles with land grants. The matter of collecting quit rents and attempting to resolve the matter of land titles then became linked in public meetings demanding a representative assembly.²⁵

Free settlers had agitated repeatedly for trial by jury from the earliest days of the colony although Arthur opposed this. When a prominent citizen, the Attorney-General Joseph Gellibrand, spoke in favour of this measure, Arthur quietly used all available means to have him removed and discredited.²⁶ Limited juries existed but part of the problem was the nature of the colony's population mix. Anxious to

²² *Hobart Town Gazette*, 1 April 1825

²³ McKay, *Journals of the Land Commissioners for Van Diemen's Land 1826-28*, xxi

²⁴ Levy, *Governor George Arthur*, 265-270

²⁵ Petrow, "'Discontent and Habits of Evasion'": 248-249

²⁶ Castles, *Lawless Harvests or God Save the Judges*, 120-121

protect everyone's rights and satisfied with the existing system of limited juries, Arthur still believed in 1828 that "the Colony was in no way prepared for the unlimited admission of Trial by Jury".²⁷ Even when Arthur was instructed in 1831 to permit juries in cases involving the government, it took until 1834 for it to become law. In 1836 Arthur had to implement the Colonial Office policy of funding policing from local revenue. At this time the colony had around 12,000 free adults and six members of the Legislative Council argued it was insufficient population to fund the large costs of the police and gaols for 7000 British convicts (£24,283). This was particularly galling as even with the high ratio of police, areas of the colony had insufficient or no police at all. It was noted "a great many expirees" (ex-convicts) settled in areas lacking a police presence and respectable settlers demanded protection of their property.²⁸ Arthur's efficient strongly centralised form of management came to an end in 1837.

To his credit, Arthur also acted as if he were a Justice in Britain managing a locality's amenity. He attempted to have a form of local municipal government instituted in Hobart and Launceston, although the Colonial Office did not agree with his recommendations. He made provision for civil administration for regulating the roads and a range of sanitary measures. The problem unfortunately was the means used to implement them – once again, using his policing system which was very unpopular.

An altogether different Lt. Governor, Sir John Franklin, replaced him. Franklin was no match for a hostile group of influential free settlers who had attempted to discredit Arthur (unsuccessfully) in the press and through parliamentary and public sector contacts back in Britain. In reverse to Arthur's opinions, Franklin was sympathetic to the demands of settlers in their demands for representative institutions and believed the colony ready for the same. He opened the doors of the Legislative Council proceedings to the public in 1838 and appointed disaffected influential settlers. The Legislative Council was given greater scope in deciding colonial issues, thereby loosening the central policy grip on colonial management. Franklin was instructed to raise colonial revenue by collecting on the quit rents in arrears. His attempts to do this largely failed, leaving a legacy for the next Lt. Governor to sort

²⁷ Levy, *Governor George Arthur*, 55

²⁸ Petrow, "Policing in a Penal Colony": 376-377

out. Another largely ineffective Lt. Governor followed in the person of Sir John Eardley-Wilmot in 1843. By this time the colony's economy was experiencing a significant downturn and the Treasury was almost bankrupt. With the introduction of the probation system for convicts, the colony was suffering from too many unemployed convicts and low wages for free labourers. The price of wool had dropped after the 1839 economic depression in Britain and mainland markets for Tasmanian produce and livestock with the opening up of Port Phillip in Victoria were collapsing²⁹. At the same time the cost of policing and gaols was increasing. An attempt to introduce a Lighting and Paving Bill with a Board of Commissioners, but not full municipal rights was rejected by the colonists. Attempts to improve the amenity and infrastructure of towns by getting the colonists to foot the bill were resisted while the colony lacked a fully representative government.

Eardley-Wilmot's measures to resolve the quit rents problem foundered in the courts with settler dominated juries finding against government actions to recover the rents.³⁰ His measures to raise taxation, such as through the Lighting and Paving Bill, resulted in six Legislative Council members resigning (the so-called Patriotic Six) in 1845. The issues at stake included what were considered to be unconstitutional means to impose increased duties on various goods, the costs and employment problems caused by the probation system and increased expenditure on policing and gaols. Their actions effectively prevented the central administration from operating for a period. Another attempt in 1846 at municipalisation with a Board of Commissioners in Hobart effectively failed through problems of funding and enforcing rates in the following year. Eardley-Wilmot was by then replaced by the last colonial military governor, Lt-Governor Sir William Denison in 1847. This was a return to a more centralist style.

While Denison finally resolved the quit rent issue in favour of free settlers, he continued to maintain the convict system. The Colonial Office was of the opinion that for representative government to emerge, it needed municipal government first. This issue was overtaken by the issue of transportation.

²⁹ Hartwell, *The Economic Development of Van Diemen's Land 1820-1850*, 192

³⁰ Petrow, "'Discontent and Habits of Evasion'": 248-49

By 1847 the transportation debates, bound up with over-supply of labour during an economic depression but presented as a moral issue, began to take hold in the colony. So-called, “the glorious sixth of May” public meeting petitioned for abolition of transportation.³¹ Denison’s response was to write to the Colonial Office:

The people have become accustomed to look to the Government to help them in every case which involves the expenditure of money or labor, that they have nearly lost those habits of self-dependence which are most essential to their prosperity, and without which it would be difficult, if not impossible to carry into efficient action those free institutions for which they have been so anxiously petitioning.³²

Further proposals by the Colonial Office to send New South Wales convicts to Van Diemen’s Land were abandoned in the face of public opposition having “proved to be so unacceptable to the Colonists, and which Her Majesty’s Government would have been most unwilling to urge against their wishes.”³³ Caught up in the transportation debates, Denison was able to delay municipalisation legislation until 1852.

In 1851 the passage of the *Australian Constitution Act 1850* by the British Parliament established the new Legislative Council of which sixteen members were elected and eight nominated by the Lt-Governor, thereby finally giving the colony limited representative government. It also removed the Lt-Governor from the controlling position of Speaker of the new Council and while able to initiate Bills, he was unable to control debates. Municipal government was finally established in 1852, with municipal elections for Hobart and Launceston in 1853.

Denison had preferred a system of commissioners (although he believed he could do the work “much better” himself).³⁴ Public meetings of citizens preferred the full English model of incorporation, echoing the earlier Magistrates Report to Arthur (see Appendix 1). Eventually a non-incorporated council of seven unpaid Aldermen was elected on a plural voting system based on property. Denison continued his support for transportation, to the extent that the Legislative Council even passed a no-confidence motion against him, although he was retained in his position until the

³¹ *Hobart Town Courier*, 8 May, 1847

³² William Denison, Despatch to Earl Grey, 20 August 1847, AOT, Governor’ Office, 33, Vol. 59, Despatch 101, 198 at 203-4 quoted in Sir and Lady Denison, *Varieties of Vice-Regal*, 64

³³ “Government Notice 15 June 1849”, *Hobart Town Gazette*, 19 June 1849

³⁴ Bennett, *Reluctant Democrat*, 148

normal course of recall. Given the economic downturn and problems of colonial tariffs, Denison was able to foresee the likely impacts of the loss of colonial funding even as the free settlers focused on the goal of a fully representative assembly.

With the ceasing of transportation, the colony was finally able to move from representative to responsible government. In this matter, Denison was anxious that a bicameral system of responsible government be installed, such that the Upper House (the Legislative Council), being the “property and intellect of the Colony” would be able to restrain any excesses of a Lower House.³⁵ Denison had a low opinion of the colonists and when asked to advise the Secretary of State on the new constitution for Van Diemen’s Land had this to say:

It is usual to assume that colonies are off-shoots from the parent stock, containing in themselves the germs of all the elements of which society in the mother country is composed.

This can only be said of any colony with many reservations, but it cannot be said of these colonies with any appearance of justice or truth.

There is an essentially democratic spirit which actuates the large mass of the community; and it is with the view to check the development of this spirit, of preventing its coming into operation that I would suggest the formation of an Upper Chamber.³⁶

(It is worth noting at that time “democratic” had a similar connotation as “communist” did in 1950s Australia.) The eventual passage of the *Constitution Act 1854* created two elected Houses of Parliament. The same year the *Constitution Act* enabling responsible government was passed. By 1856, Van Diemen’s Land was no more and Tasmania was a self-governing colonial State in its own right.

Responses to colonial centralism

In response to the centralist policies of Arthur and Denison, and having finally achieved a representative parliament, the free settlers then followed a strong policy of permissive decentralisation in developing local government outside of the two major cities. The voluntarist tradition of the period prior to the second reforms in England was of leadership bound up with ideas of property, local control, political authority, duty and patronage. These beliefs ran counter to the policies of the two

³⁵ Bennett, *Reluctant Democrat*, 151

³⁶ Denison to Grey, 15 August 1848. Papers Relative to the Proposed Alterations in the Constitutions of the Australian Colonies, pp. 30-31. *Parliamentary Papers 1849*, XXXV, 1074. See also Bennett, *Reluctant Democrat*, 96

strongly centralist Lt-Governors. The introduction of paid magistrates, while a practice in England by this time to address the shortage of qualified Justices, offended those whose expectations having achieved large landed means, were to attain such a role in their localities. Some did, and even though Arthur's magistrates were appointed, they were appointed by him and answerable to him, not to the interests of the surrounding local landed elites that were emerging in the pastoral properties of the island's Midlands. In effect Arthur overtly politicised the role of the Justice, thus changing its nature from the common good of the locality to Arthur's definition of the common good of the whole colony. The removal of substantial settlers such as Thomas Gregson from the position of Justice in 1828 set up a fight that was to extend through to the end of Eardley-Wilmot's and beginning of Denison's gubernatorial terms when the "Patriotic Six" caused colonial administration in the Executive Council to come to a standstill. Gregson's response would have been echoed in a number of quarters in the colony where Arthur's ideas of leadership were anathema to that experienced in Britain. Furious at being removed by "an act of power, not an act of justice" for opposing Arthur's policies on the free press and other measures, he wrote to Arthur:

Of Your Excellency's power, all who live in Van Diemen's Land must be quite sensible...All Colonial indulgences, all rewards, all distinctions are at your disposal. The land and the labourer are both in your hands. The most trifling wants cannot be supplied without courting you to supply them. Without your favour no free man can better his condition, and thousands of Convicts may be coerced at your discretion. With such power, it is not to be wondered at that men should endeavour by every expedient to propitiate your Excellency.³⁷

Neither did free settlers appreciate being expected to maintain convict discipline and provide a reforming environment, especially as this required them to conform to a set of expected behaviours in return for access to the essential convict labour that enabled the development of their lands. Those who lost access effectively lost everything, especially if labour was withdrawn at harvest time. Sufficient of the settlers were persuaded against transportation (even though this was a source of funding for development in the colony and the source of free labour). What use was wealth if "the hated stain" in its acquisition tainted your free and respectable status in

³⁷ Executive Council Minutes, 25 February 1828, T.A. Gregson to Arthur, 21 July Gregson to Arthur quoted in Shaw, *Sir George Arthur*, 118

the eyes of other British people?³⁸ Strongly centralist policies were resented once law and order had been imposed in the colony and became tied into the debate on attaining full representative rights. For the free settlers, the equation of property with duty, patronage, political control and the ability to control a locality was denied in the colony until 1856. The issue of transportation was used as a moral stalking horse. Downturns in the economy enabled free settlers to use the argument of economics against transportation, but it was the well orchestrated “moral means” that succeeding in ending the practice and the colony attaining a full representative assembly.³⁹

Conclusion

The combination of the early breakdown of law and order and the inability of early Lt-Governors to address the safety of people and property, and then the swing towards centralist administration with Lt-Governors such as Arthur and Denison posed dilemmas for the ideas of what constituted an accepted practice of leadership. Imposition of law and order enabled the colony to prosper and removed the impetus for most property-based crime yet strong centralist policies denying a representative assembly also denied ideas of leadership much as the early settlers had experience in England.

The interactions between the colony’s free settlers and the Lt-Governors in the first fifty years set a pattern for the next. In the first 50 years, the free settlers baulked against the military rule of the colony. They objected to press censorship, to the pass laws and musters, to the lack of representative and elected assemblies, to the ability of the Lt-Governors to make or break access to economic prosperity. Despite the benefits of free land and convict labour, colonists refused to accept the conditions of military and colonial rule and pushed for reinstatement of British institutions that suited their ideas and beliefs in property, political control, patronage and duty.

³⁸ Reynolds, “That Hated Stain”: 19-31

³⁹ See Huon, “By Moral Means Only”: 92-111; Barbara Richmond, “John West and the Anti-Transportation Movement”, *Tasmanian Historical Research Association Papers and Proceedings*, 2,n. 1 (November 1952): 7-11

Section 2: Tasmanian society

Introduction

The second section of this chapter considers the make-up of Tasmanian colonial society and those who filled positions of leadership in municipal structures once colonial Statehood was granted in 1856. Leading on from the first section, it will argue that the ideas and beliefs present in the colony at its inception may have been delayed by the interregnum of the Lt-Governors but emerged to influence the development of local government post 1858. The key question is whether such ideas and beliefs are still present in today's local government leaders.

Colonial Society

Of first concern is the sort of society the early settlers found themselves in. It was very different in many respects from the England they had left. Even allowing for the strangeness of the flora and fauna, for free settlers a colonial convict society was very different from that of Britain. The initial thirty years was marked by significant policing issues with threats to life and property, and finally requiring strong centralist management of the daily life of the colony. The position of the Justices was present but adapted to colonial military law and administration. There was no parish vestry or corporation, no chartered towns or boroughs with their Mayors, Aldermen, or Councillors. The Sheriff and Lord Lieutenant of the Council and the parliamentary member were absent also.

In their place was the position of the Lt-Governor and later on an appointed Executive Council with various legal and administrative government employees making up the administration of a growing colony. Society was made of various strata, depending on property and legal status.

The wealthy property owners and men of good legal experience were likely to be appointed as Justices by the Lt-Governor. These men made their money from access to large land grants for pastoral and agricultural activities. There was some manufacturing but not on the scale experienced in English towns of the industrial era. These settlers and others of lesser wealth, including the urban majority, still held pre-industrial mores, sourced from regions and peoples who were still only in the early

stages of transition into the Victorian industrial economy and society that popularly characterises the English 19th century.⁴⁰

The descriptions of the opportunities for colonists in Van Diemen's Land would have been very attractive to those who were unable to prosper at home and yet understood that land and birth were the main qualifications to success, both socially and politically.⁴¹ The purchase of a country estate meant opportunities for a family to advance, generation by generation, in social circles, to acquire a seat in the Commons or even marry into the aristocracy. For non-conformists largely excluded from politics in Britain at this time, a man's labour was regarded as a sacrament and the making of wealth a sign of acceptability to the Lord.⁴² These were people who understood that ambition, luck, patronage, and a careful respectability enabled a man to rise, and where better than in a new colony.

Most of the early landholders were men of "modest capital" from the urban and rural middle classes of England, Scotland and Ireland.⁴³ Rather than any sending out of the existing landed elite of Britain, they largely comprised retired officers, merchants, professionals (teachers, architects, lawyers, doctors) and yeoman farmers.⁴⁴ The Colonial Office preferred to send those who had £500 capital for cultivation of the land. The need for respectable references was paramount. The amount of land granted and the number of convict servants depended on stated assets. At a minimum a settler with £500 could expect 500 acres (202.3 hectares) and expect victuals for six months, plus three convicts and their victuals. Even those with more modest means who arrived in the colony (£50 to £100) would be granted 50 acres (approximately 20 hectares) and one convict labourer with stores for six months.⁴⁵ Van Diemen's Land's convict society was transformed through immigration of free settlers with Victorian mores and instituting as the norm

⁴⁰ Boyce, *Van Diemen's Land*, 6

⁴¹ See Burn, *A Picture of Van Diemen's Land* and Evans, *A Geographical, Historical and Topographical Description of Van Diemen's Land*

⁴² H.A.L. Fisher, *A History of Europe: From the Early 18th Century to 1935*, Vol. II, (London: Collins, 1935), 869

⁴³ Reynolds, "Men of Substance and Deservedly Good Repute": 61

⁴⁴ See G.C. Bolton, "The Idea of a Colonial Gentry", *Historical Studies*, 13 no. 51, October 1968: 307-328 and P.A. Howell, "Shovelling out distressed gentlefolk? A reconsideration of the Colonial Office's use of its powers of patronage in Van Diemen's Land" in *Tasmanian Insights: Essays in honour of Geoffrey Thomas Stilwell*, ed. Gillian Winter, (Hobart: State Library of Tasmania, 1992)

⁴⁵ Robson, *A History of Tasmania*. Vol. 1, 115

activities that would be expected of “upright, god-fearing citizens, a contrast to the boozers of the past”.⁴⁶ It is estimated that by 1830 more than one third of the 8 to 10 percent of Scots settlers held sizeable land holdings and were followed by Scots craftsmen, mechanics and then highlanders up until the 1850s. Irish migration (convict, unskilled farm labourers and some Protestant upper middle class “Ascendancy” families) constituted around 20 per cent of Tasmania population by 1900.⁴⁷ Free settlers formed part of the elite and upper middle class distinguishing among themselves by religion, education, racial origin, occupation, wealth and manners. Accumulation of wealth, to appear wealthy, was the overriding ambition.

At the bottom of the scale were the convicts. They were in Van Diemen’s Land as a consequence of Britain’s policy towards its increasingly landless and petty criminal population. In the absence of a police force and distasteful of emulating the French system of spies and informers, propertied Englishmen resorted to legal measures to protect their “sole and despotic dominion...over the external things of the world”, a significant number such measures which threatened death.⁴⁸ While there were around 160 varieties of crime that could result in hanging, a number were dealt with by commutation to transportation to convict colonies. The majority of convicts were actually drawn from the labouring classes undergoing the distresses caused by the Agricultural and early Industrial revolutions. Conditions of life for rural workers and unskilled labourers from the late eighteenth century onwards had deteriorated badly.⁴⁹ It is estimated the actual criminal population transported to be around 10 per cent, with the remainder majority being casual labourers and ordinary working class people who possessed some sort of trade. Most were transported for the crimes of petty theft, a means of supplementing low or nil earnings. Similarly, people were convicted of drunkenness, prostitution or similar - crimes that today would be treated far more leniently.⁵⁰

A number had trades to fall back on or as women went into domestic service. This group are of interest in that once sentences were served, they largely worked hard to

⁴⁶ Alexander, *Tasmania’s Convicts*, 72

⁴⁷ Peter Boyce, “Britishness” in *The Companion to Tasmanian History*, 402

⁴⁸ William Blackstone, *Commentaries on the Laws of England*, Vol II, 12th ed. by Edward Christian, (1793-95) quoted in Douglas Hay et al, *Albion’s Fatal Tree. Crime and Society in Eighteenth-Century England*, 2 (London: Allen Lane, 1875)

⁴⁹ Robson, *The Convict Settlers of Australia*, 20

⁵⁰ Alexander, *Tasmania’s Convicts*, 23

attain a degree of material prosperity and move upwards through the social scale. Unskilled labourers found it harder to prosper. Those who were of a higher class when convicted, gentlemen or professional men, usually found themselves employed in government services or treated with internal exile and rose more quickly to accumulate wealth and land.⁵¹ Another type of free settler, as a form of social control, was the subsidised families of convicts. Government subsidy of their sailing costs was largely repaid through their ability to exert a reforming influence over their convict family members. In many cases, convicts were assigned to their families and went on to re-enter society.

As a labourer in rural estates in Britain, farm servants had their food and working clothes provided for them, receiving a small payment after a term of services. For those who found themselves transported to Van Diemen's Land, the colonial convict assignment system operated much the same.⁵² The conditions for convicts were largely better than in Britain in terms of food, clothing and opportunities to improve their station in life. When the initial assignment system was in place in the first two decades of the colony, convict letters back home would often tell of favourable treatment and conditions. In 1832 one convict wrote home to say, "thank God I want for Nothing In[sic] that respect" for food, shoes, clothing and tobacco.⁵³

With successive waves of transportation and free settlement, by 1836 three quarters of the population were convicts, former convicts or of convict ancestry. With the cessation of transportation to New South Wales, numbers transported to Van Diemen's Land increased. The total population in 1840 was estimated to be 45,999. The ratio of convict to free settler was slow to change leading up to transportation cessation in 1852 and the last arrival in 1853, despite migrations of free settlers and outflows of ticket of leave men to mainland Australia. 1842 was a peak year for convict arrivals (5,329). By 1848 Tasmania was the only place of transportation in

⁵¹ In his account of Van Diemen's Land, John Mitchel, lawyer and son of a clergyman, describes how he was placed with appropriate society in Bothwell and left to associate with various respectable people in relative freedom rather than be placed in penal work or labouring, on the basis of a gentleman's word that he would not abscond. See John Mitchel, *Jail Journal 1876, or, Five years in British prisons*, 1996 ed., (Poole: Woodstock Books, 1996), 211, 235

⁵² Boyce, *Van Diemen's Land*, 175

⁵³ C.M.H. Clark, *Select Documents in Australian History, 1788-1850, Vol. 1*, (Sydney: Angus & Robertson, 1950), 131

the British Empire, although a small number were later sent to Western Australia on the direct request of the settlers there.

By the 1830s, socialisation was strictly hierarchical, trade and plebeian not mixing with elite, in a pattern encouraged by the Christian evangelical Arthur and his wife.⁵⁴ Private societies began to be formed such as the Van Diemen's Land Mechanics Institute, benevolent and agricultural societies in Hobart and Launceston, as well as racing clubs and other recreational pursuits as were pursued in Britain. Education, temperance movements and outdoor charitable relief were shaping society through an atmosphere of moral enlightenment, with a strong British influence on the education system, religious development and government administration. The lower middle and working class was the preserve of convicts and ex-convicts. This is not to say there was not movement between the classes, as some convicts and their families succeeded in breaking the class barriers over time through marriage, business and participation in respectable society and community responsibilities.⁵⁵

Colonial property and leadership

What then were the likely relationships between the convict and the burgeoning respectable settlers and those who acquired large landed estates? In the first two decades of the colony, the haphazard system of land grants meant that the agricultural stock of convicts on a "thirds" system and that of small landowners roamed unchecked in grasslands treated as commons. Stock losses through stealing were an ongoing policing problem for the large pastoralists given the isolated nature of the island and problems with adequate provision of policing.⁵⁶ Fencing in 1820 alienated both free settler's and convict stockholder's access to wealth creation.⁵⁷ Arthur's *Impounding Act 1830*, while aimed at controlling the endemic theft of domestic animals since the start of colony also cut off a means of income for

⁵⁴ See Michael Roe, *Quest for Authority in Eastern Australia, 1835-1851*, (Parkville: Melbourne University Press, 1965)

⁵⁵ Stefan Petrow, "Outsider in Politics: John Davies in Parliament 1861-1872", *Tasmanian Historical Research Association Papers and Proceedings*, 50, no. 4, (December 2003): 241-254

⁵⁶ On the isolation and working and living conditions see, Gwen Hardstaff, *Cider Gums & Currawongs: A history of lifestyle, people and places. The Lake Country of Tasmania to the 1950s*, (Hobart: Forty Degrees South Pty Ltd, 2009) and Jetson, *The Roof of Tasmania*. On policing problems, see Jamie Kirkpatrick and Kerry Bridle, eds, *People, Sheep and Nature Conservation: The Tasmanian Experience*, (Collinwood: CSIRO Publishing, 2007), 11; Petrow, "Policing in Rural Tasmania": 112-125, "Policing in a Penal Colony": 351-395

⁵⁷ Boyce, *Van Diemen's Land*, 7

labourers through the loss of use of common grazing areas. At the expiration of a convict sentence agricultural labour was the only source of income in a colony that evolved a class structure of landless labourer, tenant and landlord around farming and pastoral pursuits.

The early problems of absconders and others making a living from stealing and committing violence against the free settlers (let alone behaviours of a respectable inhabitant intent on increasing property through manipulation of influence and power) created problems of law and order for the Lt-Governors. By the time of Arthur, the response was to set up a harsh system of convict management with police enter and search powers aimed at managing the behaviour of the “convict class of settlers” that shielded absconders. Those men of property who sat with Arthur in the Executive Council would have agreed amongst themselves such powers would have ensured the quiet enjoyment of free settler property. The Council, Arthur reported:

...felt satisfied that no respectable inhabitants would have the least cause to fear the peace of their dwellings would be disturbed in consequence of the powers which this section gives to Police.⁵⁸

During the time of Franklin convicts were feared by the respectable populations. Reports of the possible death of the Superintendent of Port Arthur penal settlement prompted rumours of a convict uprising when news arrived at a government social function in Hobart.⁵⁹ As already mentioned the reputation of convicts was successfully used to end transportation and even in 1858 media manipulation to close down Port Arthur portrayed convicts as having such a “desperate character” they would rather take part in a mutiny and die given the “utter hopelessness of their ever redeeming themselves”.⁶⁰

Regulating access to and use of land was the key source of economic wealth. As mentioned in an earlier chapter, the accumulation of land into the hands of the few created a pattern of landed estates, tenantry and labourers much as existed in England

⁵⁸ Castles, *Lawless Harvests or God Save the Judges*, 130

⁵⁹ Dora Heard, ed., *The Journal of Charles O'Hara Booth. Commandant of the Port Arthur Penal Settlement*, (Hobart, Tasmanian Historical Research Association, 1981), 44-46; George Mackaness, *Some Private Correspondence of Sir John and Lady Jane Franklin (Tasmania, 1837-1845) Part I*, 1977 reprint, (Dubbo: Review Publications Pty Ltd, 1977), 33-34

⁶⁰ Ian Brand, *Penal Peninsula: Port Arthur and its Outstation, 1827-1898*, (West Moonah: Jason Publications, 1978), 141-142

at the time.⁶¹ The best agricultural land in areas of Evandale, Longford, Deloraine and land grants and grazing leases in the Central Highlands and Midlands were concentrated into ownership in a small percentage of the population while the rest largely constituted a workforce of trades, labourers and domestic servants.⁶² By 1875 the twelve largest landowners had the possession of just over ten per cent of freehold land in Tasmania. Large properties were concentrated in the municipalities of Longford, Evandale, Fingal, Glamorgan, Spring Bay, Campbell Town, Ross, Oatlands, Green Ponds, Hamilton, Bothwell and the police district of South Longford.⁶³ The accumulation of land and successful wealth creation from it depended on a controlled system of labour management. Without the English system of Justices and built up practices of workhouses and poor law commissions, the response was to legislate for a *Masters and Servants Act* in 1856 which was heavily weighted towards landowner interests and dealt with in a local court system administered by local Justices. Such Justices were part of the local landed elite and therefore sympathetic to their neighbours and even if beholden to the Lt-Governor for their appointment to the position, they still worked for the good of their locality in the interests of property.

For those convicts who did not leave the island when finally pardoned and who re-entered society as sober, industrious, respectable people, they and their children had the opportunity to make a successful life and rise above their convict class.

Considering that the idea of convictism was anathema, that to be a convict was to be “a wretch to be shunned by all men”, that “the convict class are strictly *tabooed*”, to overcome this would be a significant social victory, especially when accepted into political and community institutions from which a convict would be barred.⁶⁴ With reminders of past shame still extant in both the community and convicts towards the end of the nineteenth century, a reformed convict would want to put a distance between the past and the present by demonstrating a patriotic loyal turn of mind supportive of a society and its institutions that had led to his rehabilitation. In supporting the transportation system for its reforming effect, one settler wrote to

⁶¹ Reynolds, “Men of Substance and Deservedly Good Repute”: 61

⁶² Breen, *Contested Places*: 34; Robson, *A History of Tasmania*, Vol. 2, 128-129

⁶³ Reynolds, “Men of Substance and Deservedly Good Repute”: 61-62

⁶⁴ John Mitchel, *Jail Journal*, 221 See also Sir William Molesworth, *Report from the Select Committee of the House of Commons on Transportation*, 10, 30-33

Lord Grey noting around one hundred people living within sight of his house and farm who despite being ex-convicts were:

as worthy, as moral, and as well conducted as any peasantry upon the face of the earth. Industrious I need not add, for by that alone, and sheer perseverance, labour, and plodding, they are enabled to live, improve their circumstances (as they have done in all cases), pay their rent, and educate their children, which they all feel it a pleasure and duty to do so.⁶⁵

The settling into the institutions of church and local community would have provided this opportunity, along with steady accumulation of property and land as the hallmark of respectability. For many free settlers, political experience at home would have been either non-existent or limited. Yet they would be familiar with similar if not the same in name, institutions and practices that were introduced in Van Diemen's Land, such as the Justices and use of military for policing, and later the use of Justices in regulating the management of localities. Leadership and the legislative program in both the Executive and later forms of the Legislative Council were dominated by men of property who met the Lt-Governor's criteria of respectability and ability. They formed the class of Justices both before and after Arthur created the stipendiary magistrate system.

Arthur's paid system appears to be an anomaly. Eardley-Wilmot expressed the opinion in 1843 that, as in England, public office (in this case municipal commissioners) did not need to be paid. As in England, being elected by fellow citizens was "sufficient recompense".⁶⁶

In a voluntarist tradition of leadership, the ideas of property as patronage, duty, political power and local control accommodated the dilemma of centralised control by the Lt-Governors by being part of the system of Justices and then returned back, like an elastic band returning to shape once stretched, in the occupation of parliamentary and municipal office.

Political representation was expressed through property, a sufficient level of which enabled undertaking of magisterial and or municipal duties in Hobart or Launceston, or after 1851, even election to Parliament. By matching the lists of Parliamentarians

⁶⁵ George Hull, formerly officer in charge, Commissariat, V.D.L. enclosure in Denison to Grey, 11 October, 1851 quoted in L. Evans and P. Nicholls, *Convicts and Colonial Society 1788-1853*, (North Melbourne: Cassell Australia Limited, 1976), 168

⁶⁶ Petrow and Alexander, *Growing With Strength*, 7

to their other occupations, it is clear that men of significant estates and property dominated the various iterations of the Legislative Council and were later also present in elected local government and Parliamentary roles, as well as acting as Justices, well into the twentieth century.⁶⁷ For these men, when asked in 1829 to recommend what form of local management would best suit Hobart and Launceston, they recommended the English structure of corporation for Hobart with the English roles of Mayor, Aldermen and Common Council-men (see Appendix A) having such roles and responsibilities as would be found in any contemporary English town of the day. Although elections would follow the initial appointments, the report suggested that it would be as if Arthur was to act as local Justices did in England in appointing the appropriate people to a commission or similar.

Manufacturing never developed on the scale or at the same time as the industrialisation of areas of Britain, being limited to the size of small mills, breweries and distilleries. By 1840, agricultural and pastoral settlement dominated with exports of wool and wheat, and consequently economic dominance aided political influence. Unlike the mass of Tasmanian population, the small wealthy elite developed over the nineteenth century an educated, cosmopolitan and cultured class in comparison to others, insisting on forms of address, deference and conduct that befitted a “landed gentry”. In Britain, they would be very much at home with the “pleasant round of elegance and entertainment” that was their unquestioned class privilege.⁶⁸ As leaders in the colony they dominated meetings to welcome or farewell public dignitaries, to address any visiting monarch, to lead discussions at public meetings.⁶⁹ They shared many ties of marriage, common interests (horse-racing and breeding, fishing, riding at hounds, hunting, cricket), and membership of agricultural associations and clubs, such as the Union Club in Hobart. They enjoyed an economic independence that ensured their interests were noticed in legislative and private organisations, with their influence lasting well into the twentieth century.⁷⁰

⁶⁷ Scott Bennett and Barbara Bennett, *Biographical Register of the Tasmanian Parliament 1851-1960*, (Canberra: Australian National University Press, 1980), *Tasmanian Electoral Handbook 1851-1982*, (Kensington: University of New South Wales, 1986); Terry Newman, *Representation of the Tasmanian People: Expanded Edition 1803-1994*, (Hobart: Tasmanian Parliamentary Library, 1994), 143-151

⁶⁸ See Wood, *Nineteenth Century Britain*

⁶⁹ J. Syme, *Nine Years in Van Diemen's Land*, (Dundee, printed for author, 1848), 138

⁷⁰ Robson, *A Short History of Tasmania*, 165

By the 1850s, Tasmania's 68,800-strong population was split into rural and urban occupations. Rural dwellers were landowners, professionals, tenant farmers or landless labourers. Urban dwellers filled niches of merchants, bankers, professionals, self-employed, middle-class waged and the labouring class. Robson described Hobart, the penal administration and government centres being controlled by tight official elites who tended to Anglicanism, paternalism and political conservatism.⁷¹

The paternalism of the large landholders was evident in how they provided for their tenants and labourers, replicating the agricultural pattern of England of landed estate and tenants.⁷² Numerous local histories take pains to list the benevolence of significant landholders although they also tend to omit the contribution of the ex-convict class directly.⁷³ Land was influence. During the transportation debates, Denison supported the "Flock-owners and Agriculturalists" stating "men of property and respectability and their opinions deserve great weight as being those men who have a deep stake in the prosperity of the colony".⁷⁴

The spirit of the colony

Denison also pointed out a singular flawed belief in ideas of leadership in the colony in the "landed and monied interests" that was to reverberate into the problems of sustainable municipal institutions of later years and impact on the lack of separation between local and state roles from 1856 onwards:

...they have one common bond of unison and that is a feeling of self-interest which leads them to resist every attempt to raise for themselves and to exact as much as possible from the Mother Country.⁷⁵

This problem presented itself on a number of occasions, particularly in the development of local government. With the conflation of demands for representative assemblies and/or the end of transportation, the adoption of local government was

⁷¹ Robson, *A History of Tasmania*, Vol. 1, 483-512

⁷² Reynolds, "Men of Substance and Deservedly Good Repute": 65-66. See also *Reports on the Historical Manuscripts of Tasmania, Numbers 1-7*, 22-23, which describes sitting down to a New Year's celebration with family and tenants.

⁷³ See for example various local histories by von Stieglitz listed in the Bibliography

⁷⁴ CO 280/296 Denison to Pakington, 26 November, 1852 quoted in Jetson, *The Roof of Tasmania*, 45

⁷⁵ Denison to Grey, 3 July 1848, Colonial Office 280/32 quoted in Victor Korobacz, "The Legislative Council of Van Diemen's Land, 1825-1856", *Tasmanian Historical Research Association Papers and Proceedings*, 21, no 1 (March 1974): 17

always linked to who was financially responsible and the rightness of taxation by appointed commissioners and Justices. Prior to Denison, Eardley-Wilmot attempted to negotiate a municipal lighting and paving Bill for Hobart by conceding government taxation. Yet when municipal structures were finally introduced, ratepayers were hostile to being rated as much as needed to get works underway, preferring instead that that convict labour do the work.⁷⁶ With a further attempt at municipalisation of Hobart in 1852, citizens demanded not only monies from rates but also the government's revenue from licences and fines as well as the British contribution to the colony's police. Centralist to the last, Denison preferred a smaller municipal system with limited numbers of officials appointed by him although he believed strongly he "could do the work much better" himself.⁷⁷

The state of leadership in the colony was a defining concern for dealing with the future problems of central and local government. Denison, with the end of transportation in sight in 1853, pointed to the problem of self-interest as uppermost in the colony's future leaders:

...there is no such thing (here) as well defined public opinion. Men are all too eagerly employed in looking after their own interests, the principle of selfishness is too predominant in them, to permit them to waste time upon general politics, that is upon considerations tending to the benefit of the community at large. Every question is discussed upon personal grounds – how will it affect me or my property? what profit shall I derive from it? what return shall I derive from the tax I am called upon to pay? This is the spirit in which questions involving the future character of the people of the colony are dealt with.⁷⁸

Conclusion

Within a tradition of voluntarism present in England prior to the second period of reform, ideas of leadership are intertwined with ideas of property as qualification, patronage, political duty, local authority and acting for the common good of the locality. The society of Van Diemen's Land exhibited some aspects of this tradition but was challenged by the dilemma of the strongly centralist Lt-Governors. The ideas of a voluntarist tradition were in place and demonstrated in various ways yet the idea of property and its protection dominated through first policing issues and

⁷⁶ Petrow and Alexander, *Growing With Strength*, 12

⁷⁷ Sir and Lady Denison, *Varieties of Vice-Regal Life*, 163-164

⁷⁸ Bennett, *Reluctant Democrat*, 150-151

then being conflated with transportation and demands for representative assemblies.
How this affected local government is the next and final section to Chapter 8.

Section 3: Tasmania today

There are too many municipal councillors in Parliament.⁷⁹

Introduction

The first and second sections of this chapter reviewed the tradition and dilemmas of the development of leadership in Tasmanian society influencing local government. They build the argument for elements of a tradition of voluntarism that is more familiar to that of the period leading up to the English second reform period. The previous section argued that leadership in the colony met the challenges of the strongly centralist Lt-Governors and the problems of law and order with demands for the ending of transportation and full representative assembly, in order to protect their property rights. Municipal management was conflated with these challenges and a refusal to personally be taxed for provision of services and policing.

Once transportation was ended (1853) and Statehood achieved (1856), the vestiges of policing problems remained in the management of labouring populations in towns and remote areas, as well as the provision of services and infrastructure. How did these idea and beliefs influence local government practices? What was the reaction to dilemmas posed by Federation and the changing economic and social status of Tasmanians? Did a voluntarist tradition located in the English period prior to the second period of reform survive through these challenges or is there a new tradition of voluntarism in local government today?

What will be sought is evidence of the nature of local government leadership around ideas of acting for the common good and for the good of a locality, of being non-political and unpaid in performing the role. Three sources of local government practice are compared: the early Minute Book of the Municipal Association debates as these were faithfully recorded up until 1919, transcriptions from hearings at the 1938 Royal Commission and field interviews with Mayors.

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“Tasmania’s Case”, *The Mercury*, 28 February 1930, 11

Leadership as acting for the common good for the good of the locality

Within a tradition of voluntarism, leadership contains ideas of acting for the common good for the good of a locality. The question then is whose interests were served.

The introduction of permissive municipalisation (1858) in the areas outside Hobart and Launceston was linked with police control for the next thirty six years.

Municipalities that accepted policing also accepted the judicial duties through their Wardens as chief magistrates *ex officio*. Many of the territorial and local justices were also municipal councillors and were appointed as Justices of the Peace while in office. Even though this role was subsidised by the central government when rates failed to meet the upkeep, it provided a strong degree of control over local behaviour. Councillor Burke of Westbury often commented at the early years of the Municipal Association of Tasmania meetings:

For many years he was a great advocate for having the police under municipal control and while he was in Parliament he pointed out the large sum of money which the local control had saved the central authorities.⁸⁰

Control of policing may well have been an advantage for Councillors such as Burke. The rural landed interests formed a triangle of interests through membership of the municipal council and the Justices bench and with the limited property franchise were able to order society to deal with the perceived threats of the convict legacy as well as help or hinder central governments demands as it suited them.⁸¹

Acting for the common good and the good of the localities they served, Tasmania's local government leaders worked with the State government to implement a significant reform of local government in 1906/07. Post Federation and with the challenges of a changing society, leadership was characterised by both a reluctance to change practices and at the same time a willingness to work with other municipalities on shared interests. But, over time, they failed the test of working for the good of the locality, even allowing for the difficult challenges posed by a period of economic depression in the 1930s. Elected members failed to raise sufficient rates and depended too much on government aid and bank overdrafts (as Denison predicted in 1853), rather than set up a sustainable financial system. In part the lack

⁸⁰ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Association Formation meeting 29 November 1911, Councillor Burke, 4

⁸¹ Breen, "Local Authority in Colonial Tasmania 1858-1898": 42-43, 37-40. See also Breen, *Contested Places* and Petrow, "Economy, Efficiency and Impartiality": 5

of expertise of elected members meant poor financial performance of various municipalities as the Auditor General noted in 1938:

As regards Revenue, in many cases although it is well known that an increase in rating is required, Councillors appear loth to raise the rates, preferring to Council to get into difficulties, thus leaving the cleaning up to future Councillors.⁸²

When not raising rates, they were also open to accusations of parochial distribution. The use of the old roads trusts boundaries for municipal ward boundaries ensured that at three Councillors per ward, nine municipalities had as many as fifteen elected members (ten had 12, thirty had 9, with three unsubdivided). The division of municipalities into wards had an unintended consequence as wards were created for the purpose of recording road rates. Under the Act in operation in 1938 there was a provision for road rates being able to be transferred between wards. In practice the elected members were “very loth to make any such transfer”, preferring local advantage to benefit of the municipality as a whole.⁸³ The behaviour of elected members in this period was very much focused within the boundaries of their municipalities and as a consequence:

...the Commonwealth Government (was inflicting) a financial penalty on the findings of the Commonwealth Grants Commission upon the State Government for a defect in the finances and administration of Local Government in this State.⁸⁴

At the same time, the relationship between State and local government was considered “unusually detached in its attitude towards this section of Government” although with the formation of the Municipal Association of Tasmania (MAT) there had been numerous requests for assistance to improve valuation rolls and engage on legislative changes. In a more complex world, the small rural municipalities simply lacked the expertise, skills and money to afford professional staff such as valuers. The Auditor-General commented that by 1938:

Difficulty is often experienced in obtaining Councillors who are willing to devote sufficient time gratuitously to the affairs of the Municipality. The

⁸² AOT, RC 19/1/1 Royal Commission into Local Government 1938, Item 1: Terms of Reference – The Administration and Finances Of Municipal Government Both City And Rural In This State, Submission of the Auditor-General, 12 December 1938, 2

⁸³ AOT, RC 19/1/1 Royal Commission into Local Government 1938, Item V: Terms of Reference. Ward system, Submission of the Auditor-General, 1

⁸⁴ AOT, RC 19/1/1 Royal Commission into Local Government 1938, Item 1: Terms of Reference – Budget System, Submission of the Auditor-General, 2

experience and knowledge necessary for the responsibilities attached to the office of a Councillor is important. In these days of specialists, a sound grasp of finance and administration is required, as well as a thorough knowledge of the law relating to Municipal Government...Certain qualifications are essential to successfully administer the affairs of Municipality, and to deal with the many duties imposed on them by the Local Government Act.⁸⁵

For all the accusations of parochial behaviour that characterised the problems leading up to the 1906/07 reforms, elected local government members were able to work outside their borders on areas of common interest. With the introduction of the 1908 *Local Government Act* the newly created municipal councils felt the need to create a lobby group to represent their collective concerns to the State Government and created the Municipal Association of Tasmania:

There were hundreds of things that required joint attention, such as the absurd proposal saddling on the municipalities the cost and trouble of preparing assessment rolls which were used for the Legislative Council elections. Only a joint protest would have an effect on the Government in such a case.⁸⁶

There was a strong practice of mixing executive members from the north, south and west coast. Councillor Ellis Dean of New Norfolk felt the need to comment:

...he took it in electing him to the executive that they were desirous of the whole of the State being equitably represented. He could assure them that the North v. South question would not operate with him. He would do his very best for the State, and on his return to the South he would do all he possibly could to forward the interests of the association and extend its influence. (Applause.)⁸⁷

At the time Hobart and Launceston were not members, having their own Corporations Acts. At the first annual conference of the newly formed Municipal Association of Tasmania, the President Councillor Burke, pointed out that with the new 1908 Act municipal responsibilities had increased saving the State at least £4000 a year being performed by the Wardens and local Justices. In the 45 years prior to the 1908 act he claimed local government had saved the State the sum of £90,000 with the duties that local government had performed.⁸⁸ Councillors were

⁸⁵ AOT, RC 19/1/1 Royal Commission into Local Government 1938, Item 111: Terms of Reference – Present Form of Municipal Government, Submission of the Auditor-General, 12 December 1938, 2

⁸⁶ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Association Formation meeting 29 November 1911

⁸⁷ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Association Formation meeting 29 November 1911, Councillor Ellis Dean, 4

⁸⁸ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, First Annual Conference Hobart 22-23 May, 1912, Councillor Burke

anxious to retain the role of magistrates but wanted to ensure all the fees were retained in the local council area. There was a strong sense of grievance against the State government when roles were either added to local government duties or threatened to be taken away. Moves to remove the justice role from councils were resisted as the Minutes of the 1913 MAT conference reveal:

The policy of the Government seemed to put as much work on the Councils as possible, and take what they could from them. The proposal of the Minister now seemed to be a change of front. He hoped the Councils would take a determined stand against the Ministerial proposals in regard to the judiciary. He denied that worse justice was being meted out by the honorary justices than by the stipendiary's. The Councils, which provided the whole of the machinery, should, in his opinion, receive all the fees and fines that came through their Municipalities. The Councils had to provide justices, and in many cases had even to pay for the rooms in which the Court sat. He trusted most sincerely that the Councils would stand fast together and not permit the Government to appropriate all fees and fines. The Government did very little of the work, and as a matter of equity the Councils should get all.⁸⁹

It was a continual grievance, especially regarding road funding, and local control of roads or control over allocating road subsidies:

Annual Subsidy – Aid to Road Rates – “That the Government be urged to immediately amend the section of the L.G. Act depriving the municipalities of the power to allocate their annual subsidy in the manner best suited to their respective requirement.” Carried.⁹⁰

Municipal representatives argued in 1918 “too much money was lost by government officials. Those who were on the spot, who know the local conditions, knew exactly what was best for their own districts.” Removal of road responsibilities would be “striking a blow at the fundamental principle of Local Government”.⁹¹ While common issues of road and valuation roll funding, licence fees and model by-laws were shared by the MAT members, it was also a forum to raise support for very local issues (blackberry and noxious weed removal) or issues that reflected regional concerns (timber carting on roads in winter, bush nursing, hunting on Crown land).

⁸⁹ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Second Annual Conference 14-15 May 1913, Councillor Hon. Ellis Dean MLC New Norfolk, 51

⁹⁰ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, First Annual Conference Hobart 22-23 May, 1912, 22

⁹¹ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Minutes Third Annual Session 20-21 May, 1914

There is one aspect of local leadership of acting for the common good for the good of the locality. There seems to be an inherent belief in the population that in times of community disaster, local government is the first port of call for help and assistance to recover. There are numerous examples of this, such as Hobart City Council's response to providing relief work during the 1930s Depression, or the 1967 Bushfire disaster. The Hobart Town Clerk was walking back to the Town Hall and:

...noticed a small group of people gathering in its foyer. His questioning revealed that that they had been burnt out; they were merely the first of hundreds of refugees who would make their way during the next twenty-four hours to the Town Hall.⁹²

How do today's local government leaders consider acting for the common good for the good of the locality? Since the 1993 *Local Government Act* Councils have a general competence power that enables them to act outside of their municipal boundaries and well as within. The structure of communities has also changed with the rise of the progress associations and service groups. Current Mayors reported a shift in how the community and local government reacted to providing and facilitating services within a municipal boundary:

That role is sometimes taken up with your service groups, and, I think Councils in small communities actually do play that connecting, affirming role reinforcing that people are still important. As a Council, we have sixty five elderly people units that we manage and maintain, for, which are one or two bedroom units, and that's quite significant, if you think about that as a business sector, we've always done that, because some years ago with our Lions Club, built two units, but then they realised and, terrific service clubs are not great sometimes at managing infrastructure because of the change of people, we, we Councils are much better prepared for it, and have managed and built many more units.⁹³

There is the recognition that whereas once local government leaders operated within a polite fiction of being "non-political", although actions often belied this when confronted with forced amalgamations, they could now be more politically active on behalf of their communities and were not afraid to be seen to be doing so. "Locality" is now considered in a wider context of what "community" means with local government now having to act within a Federation. What is noticeable with today's

⁹² R.L. Wettenhall, *Bushfire Disaster: An Australian Community in Crisis*, (Sydney: Angus & Robertson, 1975), 92

⁹³ Interview: RR5

local leadership is the willingness to engage in political behaviour in the best interests of their communities:

I hope there will be less (councils) and hopefully they will be working extremely well with State government and Federal government to ensure that regions are active, vibrant and got employment. And I think it's something together we can do a lot, together with working out areas of investment, for example, in the north here, which we're starting to realise as a Council with other Councils and we are doing that with a few that areas of expertise that we have here, how can we grow that so then we can see more employment in that area, what can we use our natural advantages, agriculture, water that we have, how can we use that to develop the region and I think there will be a lot more of that happening more and more, either working together or amalgamation so we can do it together.⁹⁴

...going back to the role (issue) and that was during the election, if the Liberals promised something, I would negotiate with Labor so we had it in a vice versa, so we were able to literally lock in both parties into what we wanted, and I don't think, and I think that's becoming a major role of the Mayors, is to actually, they've got to go out and do all of this. And I think that's where that change has been, instead of sitting back waiting for it to come, we got to get proactive. And it's not because you like Liberal or Labor or the Greens, it's a matter that you have to do, do it for survival of all your, your community.⁹⁵

The dilemmas posed by economic changes and geographical isolation are both acknowledged by current Mayors. The response is to shift local government practices to accommodate such challenges, with a belief that local government will always be needed to influence outcomes for the common good for the good of the locality:

The problem with Tasmanian local government is that it has dis-economies of scale, and you'd never have economies of scale. You can only reduce those dis-economies of scale to make, you know, the benefits of local government less taxing. We're too small whatever we do. Whether we, if we only have one Council in this State or twenty nine or whatever, it's just reducing the dis-economies that we currently have. You know, it's not too hard to play the system, whether it's planning, whether it's engineering works, if you know how it works, you know how the planning system works, how the engineering departments work, how the rules work, you can certainly be a significant player in determining outcomes.⁹⁶

...well again it goes back to the same thing. That because it's, we are a relatively small in, sixty six thousand kilometres is not a large land tract but it is a huge land tract when you've got to get from A to B. And I think that

⁹⁴ Interview: UR3

⁹⁵ Interview: RR4

⁹⁶ Interview: UR1

geographical isolation we've had and still remains, our mountains are still where they were, the roads are still as they are, the, the rivers to cross and the things to be encountered, we will never have a situation and why would you, if you've going to have State government, don't bother having three only local governments because it's just an absurdity.⁹⁷

Leadership as non-political

It was noted earlier the polite fiction of local government as being non-political and how in fact it has been used quite successfully to weight the membership of juries and the House of Commons in Britain. In Tasmania there were no parliamentary borough electoral linkages between municipal councils and the State Parliament. Certainly the membership of Parliament, and especially in the Legislative Council, reflect strongly the landed interests of the colony as also pointed to when comparing biographical details of parliamentarians.⁹⁸ This relationship enabled local government a strong “inside the tent” lobbying position when proposals for amalgamation and related reforms came before the Parliament, as outlined in Chapter 2. In one instance at Special Conference of the MAT to consider the Main Roads Bill, it was moved by the Devonport delegate “that no member of Parliament should be a member of the proposed board, so as to ensure that body being non-political” at which the Hon. John Hope MLC “said the motion was aimed at him as a personal matter, and he took it as an insult to the municipality of which he had been a member for 45 years.” The motion was lost by a “large majority”.⁹⁹ The idea that a Mayor could wear both a political and non-political hat depending in what forum he was acting in seems curious but was well accepted by his peers.

This pattern of dual membership as Parliamentarian and municipal member continued over the twentieth century and was only severed in by changes to the local government electoral system in 2013. In 2012 Tasmania was still the only State in Australia to allow dual representation in the Tasmanian Parliament. Reflecting changing ideas of governance and Federal practice, it was felt that maintaining this position was causing confusion as to roles, potential conflicts of interest and

⁹⁷ Interview: UC1

⁹⁸ See Bennett and Bennett, *Biographical Register of the Tasmanian Parliament 1851-1960* and *Tasmanian Electoral Handbook 1851-1982*; Newman, *Representation of the Tasmanian People: Expanded Edition 1803-1994*, 143-151

⁹⁹ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, 29 November 1911, Minute Book, Special Conference to Consider Main Roads Bill, 18 July 1917, 304

inequities when Mayors were involved in government policy making that directly affected their municipalities.¹⁰⁰

The claim of local government as non-political has already been discussed as a polite fiction in English local government practice. Electoral party involvement in local government was argued against on the grounds that elected members would represent all interests in the community. It was claimed in 1958:

Political matters are not discussed at the council table and it may be truly said that there is no political bias whatever in council affairs. If such an attempt were made the councillor who introduced the subject would be promptly silenced.¹⁰¹

It is difficult to find any record of Councils coming out in favour of one political party or another – local government has a long history however of complaining about the actions of government as a perusal of the Minutes of the Municipal Association of Tasmania will demonstrate. One of the reasons that might support such a claim has been the longevity of dual representation between State Parliament and municipal government. In effect, local government acted as though it were an English borough by having the advantages of dual representation and not needing to appear as politicised.

It is too early to tell whether local government will become increasingly politicised with overt party political members using local government to further political policies and factions now the dual linkage is broken. If there is to be future resistance to change, it will be interesting to see how much municipal councils seek the assistance of the Legislative Council into the future. What has changed is a recent active interest in local government from outside political parties:

I would say there's more interest in the community now in local government and I've seen political parties get involved in it in the Huon Valley where, when I've, before 1996 when I was first elected, I don't think the political parties were so much involved. It happened here in 1996 first year I was elected. We had a political party nominating a member and ever since then we've had two political party affiliated members on the Council since then. So that's one of the things I've noticed. Politics has come into local government since amalgamation.¹⁰²

¹⁰⁰ Tasmania, Department of Premier and Cabinet 2012, *Proposed Changes to Local Government Electoral Arrangements Discussion Paper*, Hobart, 2012

¹⁰¹ von Stieglitz, *A History of Local Government in Tasmania*, 241

¹⁰² Interview: RR1

Although overtly politically aligned local government members are appearing in local government, none appear to have yet achieved being elected to the position of Mayor as a party-endorsed candidate. The current Mayors feel, that at this stage, that such open political alignments do not necessarily result in factional behaviour:

Can I also add to that, quite a few councillors have had or still have, party affiliations of one sort or another, Greens, Labor, Liberal. For example I know there are three members of the Liberal Party, couple members of the Labor Party, we've got one Labor-endorsed candidate for the next State election, we've got one Green who's been elected to Council as a Green, so party affiliations are a side issue, as opposed to a representational issue in my view. And we don't caucus on party lines, we don't debate on party lines, everyone sitting around the table is sitting as an independent.¹⁰³

The idea of non-political leadership as “sitting around the table” acting in the best interests of the community, as not “playing the [political] game”, is still persistent. This is possibly interplay between localist and voluntarist traditions in wanting to maintain a community-focused organisation:

Oh yes, there's hardly any politics played, I mean, it's straight down the line. If your reports coming through from staff are reasonable reports, they are not very politicised at all. We don't play that game, I don't think we should. It's a, it's a community organisation, it's not a political organisation. I'd hate to see the day that we end up like New South Wales or Victoria.¹⁰⁴

Leadership as duty

Leadership as duty to a locality was reflected in the long periods of service in local government to a locality and that such periods of service reflected well on the qualities of leadership. The unanimous election of the first Municipal Association of Tasmania President, Councillor Burke of Westbury, was reflected on his years of service:

Cr. Burke thanked the conference for the honor reposed in him. He was elected a councillor for Westbury in 1863, and except for 15 months he had been a member ever since. All his old colleagues had departed this life. After six or seven years he had been appointed Warden, and had held it for 33 years, which went to show his services had been appreciated. (Applause.) He took their election as a distinguished honor. (Hear, hear.)¹⁰⁵

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Interview: UF2

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Interview: UR1

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AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, 29 November 1911, 4

The role of municipal leadership was in the early decades of the twentieth century and with this a consideration that ownership of a large estate was no longer sufficient experience. In opening comments the then Mayor of Hobart reflected on the changing role of elected local government leaders:

Years ago the duties of municipal councils were practically confined to the construction and maintenance of roads and paths, but of recent years their powers and responsibilities had been enormously increased through the operation of various Acts of Parliament. The duties of a member of a municipal council were now of a most important description, and any man who aspired to fill the position of a municipal councillor in a satisfactory manner must be prepared to devote a very large amount of his time and ability to the ever-changing problems of municipal government.¹⁰⁶

The idea of leadership within a tradition of voluntarism contains ideas of performing the role as a public duty with no remuneration.¹⁰⁷ Although this was not an issue for those with sufficient capacity, for others in remote areas of Tasmania the cost of travelling was proving difficult to absorb. Warden Solomon from Leven Council raised the point of elected members needing some subsidy for railway passes in a motion before the MAT. He was supported in this and especially by the Councillors from Circular Head and Hamilton:

...the committee was scattered all over Tasmania in order that the Association should be thoroughly representative. Last year it had cost the Association the sum of £28 for travelling expenses of the Committee over the railways. That was a drain on their funds, and seeing they were engaged on public business, members should receive consideration.” *Warden Plummer (Circular Head) said*, “the members of the Association gave their services, voluntarily, and the least thing the State could do was to give them that much assistance. Those attending an Agricultural Conference received a free pass out of a special fund set apart by the Government. The Municipal Conference was just as important as that of agriculture. The Government should vote them a sufficient sum to give them a free pass when travelling on Executive business.” *Warden Dixon (Hamilton)* “thought it was a step in the right direction.” *The motion was carried.*¹⁰⁸

Attitudes toward payment for municipal councillors were not well received.

Opening the 1915 MAT conference, the then Mayor of Hobart drew laughter when noting the conference papers included a proposal to ask for free passes:

¹⁰⁶ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, MAT First Annual Conference, Hobart, 22 and 23 May 1912, Alderman A. Crisp, 12

¹⁰⁷ The *Local Government Act 1908* did make provision for allowances for the Wardens and travelling expenses of Councillors if the Council thinks fit to do so.

¹⁰⁸ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, MAT Third conference 20-21 May 1914, 101

At any rate, he thought they should be careful to not make it life passes. (Renewed laughter.) No doubt the proposals as to payment of councillors and the municipal franchise would give rise to a good deal of discussion. If those were carried, it might be said that it would tend to get rid of some old fogeyism, but it would be just possible that they would get another kind of fogeyism, which they needed to guard against. He thought the municipal councils could, and did, render the Government great assistance in matters of public works.¹⁰⁹

The Warden of New Norfolk disagreed:

That proposal, said the mover, was brought forward with the object of democratising municipal government. For years, municipal life had been very conservative, but by broadening the franchise and increasing the work they were benefiting the community as a whole. They gave their time and paid their railway fares, and the latter should be excused them.¹¹⁰

At this point we begin to see a shift in the idea of leadership as duty through the dilemma of economic changes and more representative voting. The idea of local government leadership as an activity to be undertaken by wealthy men only is challenged by others of lesser property wanting to contribute to their communities. In effect, if a person can vote, why can they not also lead – “every man was worthy of his hire”. Debate over a motion on the “payment of Councillors for services rendered” provided an insight into the regional thinking on remuneration where support came from. The motion was moved by Warden Ryan of Huon Council:

He said that the councils did not at present possess the right to vote themselves remuneration, and if the members of the State and Federal Parliaments could fix salaries for themselves, it was only reasonable that they should do the same in municipal life. They should not have in force a rule that debarred people taking part in municipal affairs unless they were men of leisure.

Warden Dean (New Norfolk) seconded pro forma. He said that of late years a great change had come over the conduct of municipal affairs, for now a great deal more had to be done by the councillors than ever formerly. For himself, he was rather inclined to think that it would be better for the councillors to confine their attention to the Council Table more, and to engage expert advice in carrying out the executive work.

Warden Connell (St Leonards) opposed, and said that, were the motion carried, they would tend to get professional councillors, just as now they were getting professional politicians, and the change was not for the better. (Hear, hear.)

Councillor Hilder (Burnie) also opposed.

¹⁰⁹ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, MAT Fourth Annual Session, 12 May 1915, 136

¹¹⁰ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, MAT Fourth Annual Session, 12 May 1915, 144

Warden Burke (Westbury) the oldest municipal councillor in the State, added an expression of opposition. The payment of councillors would be contrary to an important principle of municipal government. He agreed with Warden Dean that they should pin their faith more to outside expert services by engaging overseers.

Warden Hingston (Deloraine) was opposed to the payment of councillors for their ordinary services, and moved as an amendment:-

‘That the Local Government Act be amended so as to allow of the payment of councillors for services rendered when acting as presiding or returning officers at elections.’

It was, he said, quite legal to pay outside persons £1 1s for their services, and it would be an actual saving for the councils to be able to engage a councillor at a lower fee.

Warden Rose (Scottsdale) seconded the amendment.

Councillor John Hope (Kentish) said the reply of the Premier to recent representations on the matter, that he was not prepared to entertain the proposal, should be regarded as disposing of the motion.

Warden Ryan argued that every man was worthy of his hire, and that payment of councillors would have the effect of making better brains available.

The amendment was lost, as was also the motion, on an overwhelming majority.¹¹¹

This voting on this issue was consistent at the time with the idea that public office was a duty to be done without remuneration of any kind. The Warden of Huon Council tried again in 1919:

Warden C. Page (Huon) moved for councillors to be awarded travelling expenses, whether claimed or not, to attend Council meetings. The motion was seconded by Warden Pearsall (Kingborough). Warden Pitt (Hamilton) said that “Bothwell was a large municipality, but the councillors, some of whom travelled 50 miles, did not expect nor receive expenses.”¹¹²

The motion was defeated “by a large majority”. The issue of payment for Councillors was canvassed the 1938 Royal Commission, prompting the comment:

Whilst Wardens and Councillors are prepared to give up their time to meet the requirements of Local Government, I cannot advocate a better system although the time may not be far distant when councillors may not feel disposed to give their services free.¹¹³

¹¹¹ AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, MAT Fourth Annual Session May 12, 1915, 147

¹¹² AOT, CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Seventh Annual Session, Hobart, 30, 31 May 1918, 349

¹¹³ AOT, RC 19/4/1/1 Royal Commission into Local Government 1938, Hearings of the Commission 1 November 1838-30 June 1939, Warden B.J. Pearsall, Kingborough

Since the 1993 Act elected members are paid sizeable allowances based on the population size of municipalities, not its size or ease of access or responsibilities or expertise needed.¹¹⁴ The belief in leadership as duty is nonetheless enduring as current attitudes towards payment for service vary:

Well there are some Councillors who think it should be more and there are those who think it is more than adequate, who would be in the majority. We've got one Councillor who believes we shouldn't get any travelling or telephone expenses whatsoever in addition to our allowance. He believes that the allowance is quite sufficient and that's one extreme. We have another one who believes that he should have completely open slather to drive around, use the phone as much as, and so, you know, there are polar, polar opposites. To my belief we get allowances sufficient for, and I don't think it's appropriate... (phone interruption) I think you can make an argument for actually, for having the allowance that's set by the State Government... would be considered reasonable, you'd just have to go into our expenses in great detail because we have one of the elected members who was a serious outlier with a lot of money being spent on phones and petrol expenses, but so, and every Council seems to have different rule and regulations...why don't we just don't have one allowance set and that provides a reasonable amount for telephone and car, you know, and we'd have no arguments at every Council.¹¹⁵

The fear I do have is with local government, the way when I left in 1998, it was a different remuneration regime for local government. It was more or less heading towards a voluntary basis, you know. The Aldermen would get four thousand the Mayor would get twenty. It's gone now way out of whack in my view where the Mayors, Mayor gets sixty thousand, the Aldermen get twenty and the Deputy Mayor gets forty. I think that will probably be a driving force for a number of people coming into the future to say, sheesh, forty grand or twenty grand is four hundred dollars a week, it's a reasonable salary for a day's work. We may have the wrong people coming in.¹¹⁶

Leading the community through local government was seen in the past as a form of financial donation. As the above quote illustrates, such duty is now quantified by a dollar figure. The comment, “(w)e may have the wrong people coming in” illustrates a belief that Mayoral leadership needs to be community focused, not financially driven. It was acknowledged that non-payment of allowances enabled a larger number of municipalities to survive up until 1993:

¹¹⁴ See Tasmania, Department of Premier and Cabinet, *Report of the Board of Inquiry into the Allowances of Local Government Elected Members*, 28 July 2004; Tasmania, Board of Inquiry into Review of Allowances for Local Government Councillors, *Report*, 26 June 2008, Hobart; Tasmania, Department of Premier and Cabinet, *Councillor Allowances Information Sheet*, October 2009

¹¹⁵ Interview: UF1

¹¹⁶ Interview: UR1

So it's not surprising that until the last fifteen years we actually had even more municipalities because they were largely staffed on a free basis, in other words the community's representation was given freely, and accordingly they effectively were, were sustainable in respect to some of their costs and expenses.¹¹⁷

The issue of how much today's elected members are paid is a sore point for attracting talent. Current allowances are set on population in the municipality, not the level of training or capacity.¹¹⁸ The ability to have more freedom to attract talent is attractive:

Absolutely, that would be the trade, and training. Less Councillors, but you train them, one, with telling them what job they will do, because right now we go back to what I said before, they don't know what is expected of them and two, you give them a decent, decent amount of money so you attract, I've got in (this municipality) a lot of tree and sea changers that are incredibly smart. They used to be managers, and they used to be HR people and engineers, and all sorts of things.¹¹⁹

I think you should have elected members because of the demographic process and also the democratic process both. But I think they'll be higher qualified. I think they'll be paid more and they'll be expected to work to earn that money, and so I think you most probably have your same Council area but you most probably have people in pockets looking after it better, I guess.¹²⁰

There is a significant difference in the early attitudes compared to those of current Mayors on the matter of payment for services. Leadership is now qualified not just by wealth but also by a need for certain professional talents. In effect, leadership as duty appears to be overtaken by the dilemmas posed by an increasingly complex society. The Mayors of councils are expected to lead and interact outside of their municipalities, as well as being chosen from a wider range of candidates in the community.

¹¹⁷ Interview: UC1

¹¹⁸ See Tasmania, Department of Premier and Cabinet, *Councillor Allowances Information Sheet*, October 2009

¹¹⁹ Interview: RR3

¹²⁰ Interview: RR4

Conclusions on a Tasmanian voluntarist tradition

It is clear that over the period of the twentieth century there has been a significant change in the nature of ideas and beliefs within a voluntarist tradition in Tasmania. These changes are in response to the dilemmas of economic and social change. The focus on property remains, but in the much wider sense of what benefits the community as lying outside municipal borders as well as within.

The polite fiction of non-politicisation is still exactly that and today, with the severing of dual representation in Parliament and municipal office and the emergence of overt political parties using local government to further political policies, it will be an interesting ground to watch into the future, for the impact on local government practices and the form of lobbying as resistance to central changes.

The idea of leadership as non-remunerated duty still persists in some quarters. Leadership is now more than duty with the recognition that sufficient payment of allowances is needed to attract more professionally talented leadership. Leadership as the preserve and patronage of the wealthy, who are able to give time as their contribution to the local community, is challenged also by the dilemmas of representation changes. This will be dealt with in the following chapters.

CHAPTER 8 CONCLUSION

This chapter ranged across ideas and beliefs of what constitute local government leadership in England and Van Diemen's Land/Tasmania. It explored how the centralist behaviours of the Lt-Governors and their interactions with the free settlers of Van Diemen's Land resulted in a backlash against the conditions of military and colonial rule. When representative assembly was granted, the free settlers opted strongly for decentralisation in local government.

Chapter 8 continued to build the case for a voluntarism tradition more in keeping with that in England in the period prior to the second reforms. The society of Van Diemen's Land exhibited some aspects of this tradition, tempered by the conditions under which they lived.

Chapter 8 also considered the longevity of voluntarist ideas and beliefs. The values and beliefs of local leadership as duty and non-remuneration appear to have shifted in the recognition of the need to also attract talent to the elected ranks. Nonetheless earlier beliefs still persists in various quarters. There is still a focus on property but it is now on a wider scale for the whole of the community's benefit. Mayoral practices based on the idea of leadership as acting for the common good for the good of the locality have shifted with the changes in 1993 that enabled councils to act beyond their municipal borders. Of real interest to revisit will be the breaking of the linkage between municipal government and Parliament with dual representation now disallowed. The Legislative Council and municipal government shared a strong relationship in the colonial State of Tasmania and this lasted well into the twentieth century when Councils have sought help to defeat or modify central government policies.

Overall, did the early composition and later development of the colony of Van Diemen's Land/Tasmania influence ideas of leadership in the practice of local government? The answer is yes but as to longevity, Tasmania is now in a period of change and appears to be creating a new tradition of voluntarism more suited to its current conditions.

PART III: VOLUNTARISM

PART III CONCLUSION

Part III set out to understand the ideas and beliefs within a tradition of voluntarism by focusing on the practices of leadership in local government. Chapter 7 considered leadership as ideas of property and public office and then, by linking these to patronage and duty, it proposed the existence of a tradition of voluntarism present in Britain at the time colonial settlers were moving out to Van Diemen's Land. It compared briefly how ideas and beliefs around local government leadership responded to the dilemmas of the second period of reform in England. Exclusion from public office, the rise and fall of the role of the Justice and rise of the elected local government official illustrated the rate of change in ideas and beliefs compared to that in Van Diemen's Land/Tasmania.

Chapter 8 developed a case for a Tasmanian tradition of voluntarism though focusing on the management styles of the colonial Lt-Governors, the development of Tasmanian society in colonial times and today. It was able to compare and contrast the shift in ideas of leadership as acting for the common good for the good of the locality, as non-political and as duty. The dilemmas of colonial military rule delayed the development of ideas of and beliefs in leadership and then caused a shift to a decentralised form of local government. Local government shared the ideas of the period prior to the second English reform and these persisted into the twentieth century and may have contributed to resistance to local government reform.

Today a new form of voluntarism is emerging which is more suited to Tasmanian local government conditions. It considers more widely the idea of common good as well as the talents of possible leaders, not just their class and property. The idea of non-political leadership still endures but the dilemmas posed by a global society and having to work within a Federation have shifted local government practices.

The final tradition to consider is that of representation and the ideas and beliefs surrounding the development of franchise. Chapter 9 will look at ideas and beliefs in England. Chapter 10 will consider the case for a Tasmanian tradition.

PART IV: REPRESENTATION

PART IV INTRODUCTION

To recap, Chapters 7 and 8 dealt with voluntarism in the local government context of who occupies public office and therefore the ideas and beliefs around leadership. The next two chapters will consider a tradition of representation in the context of local government as who *chooses* the leadership and so focus on the ideas and beliefs of franchise.

Deriving a tradition of representation in local government will follow the same path as the division of Part III. What ideas and beliefs have been built up in the period of time of feudal local leadership, of merchant guilds and their relationship to the development of town charters and boroughs, corporations and in the recreation of the parish and vestry as a civic institution? What influenced the ideas and beliefs surrounding franchise and local leadership and what were the consequences for municipal practices?

As with Parts II and III, ideas and beliefs are traced over time through the first and second periods of reform in England (Chapter 9) before attention is turned to events in Van Diemen's Land and its later transformation, first as a colonial State and then as part of the Australian Federation of States (Chapter 10) and the dilemmas that now challenge local government practice. The Conclusion after Chapter 10 will draw together the evidence from both Britain and Tasmania of the ideas and beliefs surrounding local government franchise to determine the past strength of a representation tradition and what strength there may still be, as well as its form, influencing the reform of local government in Tasmania.

PART IV: REPRESENTATION

CHAPTER 9: DERIVING AN ENGLISH TRADITION OF REPRESENTATION - THE CO-LOCATION OF PROPERTY, LOCALITY, LOCAL AUTONOMY AND POLITICAL CONTROL

CHAPTER 9 INTRODUCTION

...in the present state of society, while some are dependent and some ignorant, it is right to make some distinction; and not invest all with the right to the political franchise.¹

Representation has many understandings, it is complex and difficult to define as a definitive concept, as political ideas, attitudes and social factors all influence practice as do assumptions about peoples' roles in society over time. In an English local government context it has developed as a set of ideas and beliefs meaningful for furthering local interests based on assumptions of purpose and ideal nature. In the context of this discussion of local government, the tradition of representation relates to franchise – the ideas and beliefs of who gets to choose who occupies public office for the good of all the community.

¹ W.E. Gladstone, quoted in Price, *British Society 1680-1880*, 257

Section 1: Ideas and beliefs

There is a basic scheme of classification built into our common speech and language. This built in classification system directs us so that we observe the things we can readily classify with the names we know, while we tend strongly to overlook or disregard everything else. We see with our categories.²

Introduction

Representation is a complex idea.³ In the context of local government a tradition of representation is derived from English local government practice and is bound up with ideas and beliefs of what franchise signifies and how it is exercised by people, as individuals and representors in a specific locality.

There is the belief that a *representor* has accorded to them a qualified right to choose the person or persons that best reflect a locality's population, identity and qualities to act as office holders on the community's behalf (as *representatives*) and to hold them to account. The right to choose also means delivering up a mandate for others to act on behalf of a community as every decision of the majority has to be accepted and treated as if it were unanimous.⁴ If the purpose of representation in local government is to elect according to law by a majority of citizens people who become representatives of all in a community, then it is necessarily a modern belief in the idea of representation.⁵ Viewing the history of local government development with the assumption of franchise being "one vote, one value" is flawed. Ideas of modern democracy create a dilemma for local government franchise based on property in providing a sustainable and viable system of local democracy.

The nature of franchise through property qualification historically determined the capacity to participate and the ability to shape a community at all times. The dilemma for local government is that it has no inherent right to determine the

² W. Johnson, *Verbal Man*, quoted in Postman, *Building a Bridge to the Eighteenth Century*, 181

³ A.H. Birch, *Representative and Responsible Government. An Essay on the British Constitution*, (London: George Allen and Unwin Ltd, 1964), 13; H.F. Pitkin, *The Concept of Representation*, (Berkeley: University of California Press, 1967), 3; Birch, *Representation*, 21. See also *The Palgrave Macmillan Dictionary of Political Thought*, 3rd ed., s.v. "representation".

⁴ Keith-Lucas, *The English Local Government Franchise*, 201

⁵ Lord Redcliffe-Maud and Bruce Wood, *English Local Government Reformed*, (London: Oxford University Press, 1974), 10

provision of local services, the mechanisms for how such services are distributed or who gets to make the decision. This is constitutionally the preserve of central government. The historical record reveals local government developed along certain lines until central government intervened to suit its national purposes. The relationship between local and central is therefore one of accommodation until a crisis occurs, although that does not necessarily mean all differences in ideas and beliefs need to be reconciled, as some are shared.

Observing what franchise means and its practice within a local government context reveals the assumptions of ideas, purpose and the role of people in a community and their longevity. The assumption is that the purpose of any form of franchise is to enable people in a locality to hold their representatives to account for their actions, to take part in shaping their locality and to confer authority to people who share their policies and display abilities to carry them out on their behalf. In the early English context, franchise was less a matter of electing a representative than the ability to exercise a vote in local management in one form of local institution or another. The development of ideas and beliefs for a tradition of representation can be traced by observing the evolution of local government franchise looking at how the beliefs and preferences of those involved with that government influenced the form of the franchise. Was the form of franchise found in England similar to that in the colony of Van Diemen's Land? What dilemmas influenced the pace of change in local government practices?

This section will follow the pattern of first deriving the tradition from local government practice in England before turning to the first and second periods of reform and local government practices within them.

Deriving the tradition from local government practice

Sketching out the practice of franchise in England in local government reveals intertwined ideas of property, delegation, locality and inclusion/exclusion.

Over periods of English history the idea of who gets to exercise choice has swung from being restricted to certain people or classes, to being commonly exercised across a community, but even then being dependent on certain qualifications relating to economic status and locality. What becomes clear is the dominance of oligarchy over democracy for much of the period of local government development, with a

single vote to single person being a relatively late development. The tendency is to look after the interests of those with property rather than to consider local government as a philanthropic enterprise.

Local government, as well as looking after local property concerns, also played a part in electing representatives to Parliament through the creation of what eventually were called “boroughs”. This linkage enabled petitioning of central government on local issues specific to a locality’s needs. Over time the relationship of Parliament and local authority swung between implementing policies of centralising monarchy or government or acting as a reciprocal and interdependent partner guarding local interests. This connection ensured that the ideas and beliefs contributing to the increasing importance of the central institution of Parliament from the earliest times to the second period of reform also resulted in significant changes to local government franchise practice in England.

The inception of franchise: locality and property

The idea of franchise as being limited to locality in Britain stretches from the earliest times through into the nineteenth century. The exercise of franchise tells a great deal about the interests of those who get to take part in local participation in decision-making and what happens to the interests of those who do not. In a local government context, franchise confers authority aimed at creating a sense of community based on local self-reliance.⁶ Political activity is focused on a locality where people live, in preference to desires of any external leaders. In a local government context the right to exercise franchise, to be able to cast a vote, is historically bound up with qualification to vote. The dilemma of what happens, when *how* that qualification is challenged by new ideas and beliefs, results in changes to local government practice.

Locality and property as qualifications for franchise can be traced back to England’s earliest times. Roman colonies were governed by magistrates as if they were Rome on a small scale while Roman citizens of other towns, *municipia*, exercised the right of choosing their own magistrates and enacting their own laws, once imperial taxes were paid.⁷ Saxon towns replaced Roman administration with meetings (*town*

⁶ Morris and Hess, *Neighborhood Power: The New Localism*, 14

⁷ Thompson, *An Essay on English Municipal History*, 5-7

moots, folkmoot) at which customary law (*folksright*) was decided with uplifted male hands as acknowledgement or witness to agreement.⁸

Locality was still an important factor even as most town meetings decayed over time. They were replaced with feudal courts and manors where allegiances shifted to local lords in times of civil unrest.⁹ Saxon townships were linked with the dwelling places of Christian priests (*paroikia*) as parishes, the beginnings of a form of local government that was able to be co-opted in later times. It survived over time as a genuinely democratic form existing until 1835.¹⁰ Vestries were places where ecclesiastical matters were managed between the local priest and his followers away from the rule of the feudal manor lord. The vestry enabled the exercise of autonomy in local decision-making by the parish priest and selected others meeting in the robing room of a Church “secure from secular interference, for the lord and his steward would not venture to dispute the priest’s pre-eminence in the sacred building”.¹¹ Membership of a parish was a matter of local custom and apparently never determined by law, likewise the right to be present at vestry meetings and take part in the local government of the parish.¹² The idea of the town meeting was persistent although in rural areas it was present more for deciding agricultural matters of sharing pastures and timings for various pastoral activities until it was mostly overtaken by the development of chartered townships, vestries and various courts of law.¹³

From the period of Magna Carta (1215 AD) jurisdiction was fixed to locations enabling local justice for local offences. In the feudal period, highly localised, almost idiosyncratic customs and laws such as Exemptions, Immunities and Franchises developed in various locations, underlain by a purpose to exclude outside authority and ensured some distinctive and exclusive forms of local government in what were territorial shires.¹⁴ Such forms included Courts – Baron, Lord, Leet, Manor, Gild, etc. enabling the dispensing of local justice and local property

⁸ Jenks, *An Outline of English Local Government*, 21-22

⁹ *Ibid.*, 19, 21

¹⁰ Redlich and Hirst, *Local Government in England*, Vol. 2, 172, see footnote 1

¹¹ Jenks, *An Outline of English Local Government*, 22

¹² Webb and Webb, *English Local Government*, Vol 1., 14-15

¹³ *Ibid.*, 128-134

¹⁴ See Sidney and Beatrice Webb, *English Local Government: The Manor and the Borough*, Vols 2-3, (London: Frank Cass and Co. Ltd., 1963) for descriptions of various Courts of Hundred, Leet, Manor, Baron and Lordless Courts.

management. Even though the king was the main guarantor of law and order, the need for local management decisions in relatively remote areas meant the evolution of various levels of local Courts and their practices (Lord, Baron, Leet, Hundred, Manor).

The various Courts were conducted very much on the same lines in all Manors; that is, all were made of the tenants for various offences, as trespass, assault, blood-drawing, drunkenness, pound-breaking, disorderly conduct, etc., and for disobeying sanitary regulations in to cleansing ditches. Actions between tenants were tried, an immense boon to them, for they had a Court of Justice in their own locality, acquainted with the parties to the suit and the witnesses.¹⁵

These were geographically located around a significant landholder or location. It was the practices of the Court Baron which contributed the ideas of common consent and local autonomy that lasted through to the second period of local government reform. Away from the authority of (although still subject to the will of) the king at a very local level, it developed legislative, administrative and judicial practices and roles relating to the management of communities that survived in some cases well into the nineteenth century.

The practice of paying off various feudal lords or a king to gain a degree of local independence created a right to levy local burdens among the people of a community without interference from reeves or bailiffs.¹⁶ The levy was in form of local taxation as well as requiring men to serve on various court juries or “homages” concerned with local management issues. In rural areas, local custom and law dictated the composition of appointed “homages” or juries, as many as needed in the locality, where tenants and freeholders entered onto local rolls were empanelled to vote for particular purposes related to that locality.

If the custom of the place be to make two or more Juries, or one Grand Jury and divers Petit Juries, it is good to observe it.¹⁷

Franchise gained expression as a qualification of being appointed to a Court from a local roll. Membership of juries or homages was by selection, appointed by an officer of the local Lord. By 1662 the majority of homagers were sworn into what developed as a law court and acted:

¹⁵ W. Young, *The History of Dulwich College*, (1889), Vol. ii. Ch. ii, on the Court Rolls, by F.B. Bickley, 266, quoted in Webb and Webb, *English Local Government*, Vols 2-3, p. 14

¹⁶ Thompson, *An Essay on English Municipal History*, 36

¹⁷ William Sheppard, *The Court-Keeper's Guide*, (1656), 20, quoted in Webb and Webb, *English Local Government*, Vols 2-3, 15

...for the better preservation of order, (and) have, time beyond memory of all men, used, with the Lord's consent, to make By-laws, as well for the stinting and limiting the number, as for appointing times for the putting the tenants' cattle into the common pastures, wastes and commons of the Manor. And such By-laws, made with reasonable penalties, and clauses for distress for such penalties, have, by the time aforesaid, been binding and concluding to all the tenants of the Manor. The like orders and consent binding for the mending of tenants' ways, and for the establishment of the common good, and preventing of public annoyances, provided that such orders crossed not the law or statutes of the Kingdom.¹⁸

The linkage of property with franchise was not just restricted to local government. In an echo of earlier feudal courts with their homages and appointments to serve, to be represented on a jury meant also to have property. The Statutes of 1825 and 1870 regulated jury duty with age (between 21 and 60) and property qualifications (varying from £10 a year in freehold or copyhold lands, £20 a year in leaseholds, assessments at poor-rate or inhabited house duty at £20, or the wonderfully English taxation qualification of those who occupied a house of "not less than fifteen windows".¹⁹

Various powers, rights and responsibilities held by a major landowner were able to be enforced by custom and local law through such courts. In the comfortable security of today's supermarkets and global food supply chains, it is difficult to imagine the need for such tight controls over people's behaviour, the ownership of land and management of property. It is easy to tend to forget that local food supplies and prices at one time determined mortality, whether a person could trade in a market either at home or abroad or if access to a strip of land for grazing or haymaking was granted or denied made all the difference whether a family with a few livestock as food resources survived the winter. Population growth was determined by successful harvests, a slow process which took until 1590 to 1690s in England to change. Combine this with civil unrests and wars that tended to produce periods of unemployed soldiers and vagrants. The early introduction of various ordinances was needed to control population movements. In a feudal society, people, other than merchants who travelled widely were expected to largely live and die in a locality and were not become a burden or nuisance (begging or criminal) to other communities. Any "intruding foreigners" were to be taxed and tolled just as were the

¹⁸ T.W. Horsfield, *History and Antiquities of Lewes*, (1824), Vol. I, 179, (quoting a document of 1662) quoted in Webb and Webb, *English Local Government*, Vols 2-3, 19-20

¹⁹ Jenks, *An Outline of English Local Government*, 143

daily lives of landless tenants and townsfolk as prescribed by a host of by-laws and fines. Landless residents were to be prevented from depriving others of the benefits of commonfield agricultural arrangements and general security.²⁰

The idea of franchise also has a foundational link with property. To gain membership of a Guild required financial pledges or securities (redemption) or in some, to have it passed on from a father (patrimony).²¹ Sworn oaths contain the idea that to enjoy the benefits conferred in a locality, membership needs to be confirmed. New entrants generally pledging they would:

...warn my Mayor and the good people of the commune if I know of any man who merchandizes in the franchise who may be able to enter the Guild.²²

Tracing the intricate development of custom, law and charters for manor, boroughs and parishes brings to the front the idea that select membership was based on financial considerations and allegiances to various lords and Church bishops.

Franchise enabled extensive control over internal arrangements. If a person was not “franchised” (entered into a guild) they were part of the “Commons”, the rest of the community of a town. They were liable for taxation yet excluded from any municipal office other than “less honourable” civic posts – having to “pay their scot” and “bear their lot”.²³ In some chartered townships, where a man could prove ownership of a certain size plot of land (a “burrage”), pay various fees, dwell in a town, and gain approval from the town’s local government, he transformed himself from bondsman to burgess with municipal freedoms and responsibilities including the possibility of exercising franchise as a guildsman.²⁴ Freedom was not complete until “due suit and service, oaths and fees” had been rendered to the Guild.²⁵ Full membership constituted municipal freedom and emancipation from the feudal lord.

Once a burgess, there was the opportunity of entering one’s children into a Guild as the next step of respectability and to give them the ability to gain influence and property as well. Guild laws over time “strenuously asserted” the sole right to confer freedom or franchise, thus controlling who could be, and not be, a part of respectable

²⁰ Webb and Webb, *English Local Government*, Vols 2-3, 20

²¹ Frank Freeman Foster, *The Politics of Stability. A Portrait of the Rulers in Elizabethan London*, (London: Royal Historical Society, 1977), 33, footnote 1

²² Thompson, *An Essay on English Municipal History*, 50

²³ *Ibid.*, 80-81

²⁴ *Ibid.*, 96

²⁵ *Ibid.* 107

society.²⁶ A number of town charters not only excluded those burgesses who were not guild members but levied a range of financial tolls that mitigated against being able to prosper (soc and sac, toll, infangthief, utfangthief, hang-wyte, home-soken, gryth-bryce, plyt-wyte, flyt-wyte, ford-wyte, fore-stall, child-wyte, wapentake, lastage, stallage, shoowynde, hundred, averpenny).²⁷ Lacking the franchise meant being picked for unremunerated municipal duties, without the right to resist. Although this gave an advantage of demonstrating the ability to take on responsibility, they were also often unpleasant roles to perform, and refusal to do so risked a fine.²⁸

Franchise not only gained an emancipated freedom to join a greater community. It was also the ability for the burgess' family to rise up the social scale. This would be quite important for an individual in a class-based society. Having freed himself and his family from feudal serfdom, the newly created burgess then had the ability to provide them better food, shelter, clothing and an education.²⁹ There was the ability to expand his and their network of social and economic contacts by moving from country to town. Becoming a burgess was a significant step in a society that divided along lines of property ownership. Property was a measure of a respectability based on economic and social worth. As Defoe claimed, and Whig and Tory contemporaries alike agreed:

I make no question but property of land is the best title to government in the world.³⁰

As was observed in the discussion of the tradition of voluntarism, property as the key to political power continued over time. With the linkage of town charters in the creation of boroughs, locality and property manifested parliamentary franchise. Once wealth was amassed in trade and laid out in landed estates, it created the opportunity, should a man have been so ambitious, to eventually secure a seat in Parliament and truly elevate a man's social sphere:

²⁶ Thompson, *An Essay on English Municipal History*, 107; Webb and Webb, *English Local Government*, Vols 2-3, 509

²⁷ Thompson, *An Essay on English Municipal*, 94

²⁸ Webb and Webb, *English Local Government*, Vol. 1, 10

²⁹ See for example, Foster, *The Politics of Stability*, 33; Webb and Webb, *English Local Government*, Vols 2-3, 498, 509-510

³⁰ Daniel Defoe, *The Original Power of the Collective Body of the People of England*, 3rd ed., (1702), 16, quoted in L. B. Namier, *England in the Age of the American Revolution*, ed. J. Namier, 2nd ed., (London: Macmillan & Co Ltd, 1961), 29

A merchant may be Member of Parliament...and shall sit in the House of Commons, with the sons of peers...This equality it is...which can alone preserve to commerce its honor[sic], and inspire to those who profess it, an esteem for their condition...The lords can have no contempt for the usefull[sic] professions of their fellow subjects, who are their equals, when assembled to regulate the public affairs of the nation.³¹

Expanding influence: plural voting and the creation of corporate votes

There are two ideas that need mentioning at this point and will be referred to when later considering the development of local government practice in Van Diemen's Land/Tasmania. One is plural voting, the other the creation of a vote for corporate beings.

Property and franchise were also linked to the idea of plural voting when the amount of a person's property determined the number of votes they could exercise. In rural areas parish rates had been steadily rising since 1770. Economic downturns and bad harvests between 1813 and 1819, caused rates to rise so steeply they almost consumed the profits of rural estates.³² The problems of open parish vestries in growing industrial towns where all ratepayers had an equal vote, plus those closed or select vestries that failed to adequately address township management or poor relief, caused significant problems for landowners unable to enforce policies of economy and restraint. A 1744 anonymous pamphlet suggested:

...the greater occupier, who relieves twenty poor persons, whilst the meaner occupier relieves no more than one, ought surely to have weight in proportion to the number of the poor he relieves, for the choice of such stewards as he shall think will dispose of his money most properly, and account most justly for it.³³

An 1807 bill concerned with the practice of generous relief of the poor by heavy taxation of the ratepaying minority argued for parish vestry reform because:

At present every person rated to the poor's rate, in the smallest sum, has an equal voice in the vestry with the proprietor who pays the highest portion of the rate...In order therefore to give to those who contribute most to the fund a due weight in the application of the money, I would propose that a person

³¹ J. Nickolls, *Remarks on the Advantages and Disadvantages of France and of Great Britain with respect to Commerce*, (1754), 110, quoted in Namier, *England in the Age of the American Revolution*, 11

³² See Webb and Webb, *English Local Government*, Vol. 1, 152-163 for a full description of the development of plural voting by the Sturges Bourne Acts.

³³ *A Short View of the Frauds, Abuses, and Impositions of Parish Officers*, (London, 1744) quoted in Keith-Lucas, *The English Local Government Franchise*, 22

assessed in a certain sum should have two votes, and in a certain other larger sum, three votes, and the largest four.”³⁴

Plural voting was initially introduced by the Sturges Bourne Acts but later replaced with the permissive 1831 Hobhouse Act giving one vote for both men and women in the creation of new select parish vestries.³⁵ As a first for democratic local government, one influential Tory considered the statute a:

...foundation for leaving the property over every man at the disposition of the rabble of his parish, particularly in the towns.³⁶

Plural voting later re-emerged in the *Poor Law Amendment Bill 1834* with differing scales for owners and occupiers, and allowing a man to vote as both owner and occupier, again reflecting the concern over rating for poor relief, and was reaffirmed in the *Poor Law Amendment Act 1844*.³⁷ Plural voting was finally overturned through arguing the principle of one vote, one value for owners and occupiers in the *Local Government Act 1894*. The Conservatives displayed again their belief in a scale of franchise being linked to property, arguing:

The system of having men on the Board (of Guardians) who had no pecuniary interest at stake would not tend to the curtailment of expenditure, if it did not tend to increase it.³⁸

The *Poor Law Amendment Act 1834* was also responsible for introducing the idea of companies and mercantile corporations as being eligible to vote, through the agency of one of their officers. Those entitled to this franchise shared in the plural votes and benefited when the property scale shifted from four votes at £400 or more to six votes at £250 or more. This linkage of property and franchise will be returned to when considering attitudes towards Tasmania’s local government General Manager’s Roll.

³⁴ Samuel Whitbread, UK Hansard, 19th February, 1807, c. 896 quoted in Keith-Lucas, *The English Local Government Franchise*, 22

³⁵ D.M. Hill, *Democratic Theory and Local Government*, (London: Allen & Unwin Ltd, 1974), 55-56; Jenks, *An Outline of English Local Government*, 25-26; Keith-Lucas, *The English Local Government Franchise*, 32

³⁶ Letter to Lord Kenyon, 19 November, 1831, *Despatches, Correspondence and Memoranda of the Duke of Wellington*, Vol. 8, 130, quoted in Keith-Lucas, *The English Local Government Franchise*, 34

³⁷ Keith-Lucas, *The English Local Government Franchise*, 35-36

³⁸ Sir J. Dickson-Poynder, House of Commons, 2 November, 1893 quoted in Keith-Lucas, *The English Local Government Franchise*, 41

Franchise as political control and local autonomy

Local autonomy is observed early on in English history with the territorial Saxon earldoms and early development of counties. The development of the English nation is characterised by the tension between centralising authority and local autonomy and political control.³⁹ The splitting of legal jurisdiction from the King's travelling court to the fixed Assizes is also found in town or borough charters. In some cases burgesses were able to elect their "reeve" (equivalent of a Mayor or Sheriff), outlined in various charters such as those of London, Yarmouth and Manchester:

That the citizens of London shall appoint as Sheriff such one from among themselves as they shall think proper. Also, that the said citizens shall appoint such person as Justiciar from among themselves as they shall think proper, to keep the Pleas of the Crown, and to hold such Pleas; and that no other person shall be Justiciar over the said men of London.⁴⁰

And the burgesses of Yarmouth shall yearly choose such provosts out of themselves, as shall be agreeable to us and them.⁴¹

Also, the burgesses ought, and have power, to choose the reeve, of themselves, whom they will, and to remove the reeve.⁴²

In effect, it was a protection of feudal liberties against an appointed person who might favour the local lord over the burgesses in the various Courts in operation in the locality, the decisions of which determined the societal and economic success or failure of local areas.

Prior to the first period of reform, town charters contained an increasing formalism and legal form reflecting crown policy, despite the diversity of regional areas, and custom and law having "equal parts in urban life". Charters or patent-letters of franchises granted to the men of a town or borough the right of being *communitas perpetua et corporata*, a corporate and perpetual community, a term that evolved in later charters to read as *corpus incorporatum et politicum*, as both a corporate and a political body.⁴³

Just how much the *communitas* engaged in or had a greater interest in the public affairs of their town depended on how the mayor and aldermen exercised their right to make by-laws to ensure stability and order. The idea of select franchise was not

³⁹ Redlich and Hirst, *Local Government in England*, Vol. 1, 11

⁴⁰ Thompson, *An Essay on English Municipal History*, 115

⁴¹ *Ibid.*, 140

⁴² *Ibid.*, 167

⁴³ Thomas Madox, *Firma Burgi* (1726) quoted in Weinbaum, *The Incorporation of Boroughs*, 5-6

something only discovered to exist in 1835 as a matter of political concern to some at that time but also something found in the early medieval periods and practiced until late nineteenth century. When existing as guildsmen prior to the development of corporations, the burgesses of a guild meeting at their Guildhall had right of exclusivity as to who became a burgess and the conditions under which a person could be admitted as well as disenfranchised.⁴⁴ The idea of a select group with the right to attend closed guild meetings, and thus to participate personally in the local government of the borough as well as to exercise a parliamentary vote speaks not only to the value and privilege attached to franchise, but also to a right of exercising exclusivity once a member. This idea flows through in the development of vestries and corporations through the first period of reform.

Franchise also conferred a measure of political control. In large township settlements, the development of merchant guilds enabled management of the business of a township or borough and from this developed the capacity to send a representative to what later evolved as the parliamentary House of Commons. In terms of political control, the right to send delegates to Parliament provided every county or town with a direct route to bring its local interests and grievances directly before the central authority.⁴⁵ For some boroughs in times of civil unrest and feudal decay the commons or commonality did get to vote for municipal positions and parliamentary representatives, but were later excluded once central control was firmly established again under threat of charter, and therefore parliamentary, removal. Selection of parliamentary representatives was also assumed by the elected municipal officers while they in turn were elected by the burgesses. The practice of being both a parliamentarian and a municipal officer was not unusual either.⁴⁶ Franchise then served as a political tool to ensure local interests were favoured in the interlinked relationship between parliament and local government in England.

In the middle period between first and second reforms, repeated attempts to change the arbitrary powers of the select vestries became a struggle at the national level between local Tory/Anglican interests and Whigs in the period leading up to the second reform, and were largely resisted by conservative landed interests. It would not be unreasonable to assume that the voting behaviour reported at one level would

⁴⁴ Webb and Webb, *English Local Government*, Vols 2-3, 509

⁴⁵ Redlich and Hirst, *Local Government in England*, Vol. 1, 17

⁴⁶ Thompson, *An Essay on English Municipal History*, 87-88

be repeated at another, especially in rural areas when tenant farmers were given franchise for parliamentary elections.

The practice of developing large landed estates with tenant farmers meant there was strong competition for good estates with generous landlords. Setting rent levels with tenants managing large landholdings could be traded off for political influence.

During debates over franchise reform in the 1760's it was acknowledge "(p)roperty in counties, as well as boroughs, commands the choice of representatives".⁴⁷

Conversely, attempts to interfere in electoral outcomes carried the risk of losing tenant farmers, with the economic problems of a decaying farm until a replacement was found. With a £50 franchise qualification and the practice of life leases, not all large estates carried a great number of votes. As one peer explained:

Do not however think that my interest will have any considerable influence in the election. Though my property here extends over nearly 10,000 acres, with upwards of 300 tenants, yet there are only twenty-nine who rent to the amount of £50 a year and upwards. At least half of the estate is on life leases.⁴⁸

Voters would actively seek guidance of the landlords, who couched their preferences in a way as to not appear too assertive or assuming of support:

Mr Walters, my steward, informs me that your sons, who are electors of the north division of this county enquired of him yesterday for whom I intended to vote and declared that they wished to know it before they formed their own determination. I feel much flattered by this testimony of confidence from your family, and have no hesitation in declaring (my)...wish that Lord Ossulston and Mr Liddell may be chosen.⁴⁹

If any of my tenants entertain any doubt as to their vote in the approaching contest, they will perhaps be not displeased that I should at once say that the way in which they can, if they desire it, both please me and meet my own wishes, would be by voting for *both* the candidates who are proposed in opposition to the late members, viz. Messrs Stanley and Townley...though of course it is not for me to dictate *to anyone* to act against his conscientious opinion.⁵⁰

⁴⁷ *London Chronicle*, 2-4 April 1761 quoted in Namier, *England in the Age of the American Revolution*, 25. See also D.C. Moore, "The Other Face of Reform", *Victorian Studies*, 5, no. 1 (September 1961): 14-16 on the 1826, 1830 and 1831 elections.

⁴⁸ Shrewsbury to Lichfield, 12 June 1832, Anson MSS D615/P(p) 1/19 quoted in Philip Salmon, *Electoral Reform at Work: Local Politics and National Parties 1832-1841*, (London: The Royal Historical Society, 2002), 128

⁴⁹ Monck to Creighton, 11 December, 1834, Northumberland Record Office, Middleton (Belsay), MSWS ZM1/B16/X1 quoted in Salmon, *Electoral Reform at Work*, 125-126

⁵⁰ Lord Derby to Robert Statter, undated, Knowsley MSS DDK 1740/4 quoted in Salmon, *Electoral Reform at Work*, 126

As late as 1852 it is reported tenants considered the wishes of landowners in how to vote. In one election candidates reported to the landowner the tenants said “that they have received no directions how to act and therefore cannot promise”.⁵¹ By sacrificing a large pecuniary interest, political control could be maintained over tenants’ voting preferences, thus ensuring the return of preferred candidates to Parliament and, it is reasonable to assume, preferred behaviour when tenants qualified to attend the parish vestry meetings.⁵² As one landowner noted:

In old time an Irish landlord would have merely consulted the registry, counted up the freeholders upon his own estate, compared them with those on others, and if there was a preponderance on his own and on those of his friends, the matter would have been settled.⁵³

Even when tenants had different ideas from the landlord, there were still avenues for landowners to control franchise. In 1832 Earl Fitzwilliam’s Irish Protestant tenants did not favour the return of his preferred pro-Catholic Member of Parliament.

Outwardly the Earl stated:

It is not for me to dictate to any man the mode in which he will exercise his franchise...or to injure any man in consequence of a vote conscientiously given, though that vote may not have been given in conformity with my wishes.⁵⁴

Inwardly he instructed his Irish agent to not take any pains to ensure these seventy six voters were re-enrolled on the new voting register.

Such was the strength of the convention of tenants voting with landlords, prospective political candidates fared better when asking the principal landowners for permission to canvas their tenants. Peers had to be particularly careful in expressing support as a 1701 House of Commons Standing Order forbade peers to interfere in elections. Although it was never enforced, it influenced public comments.

It is only in the nineteenth century that the relationship between tenants and landlords started to collapse with the decline of the paternalistic society of hereditary tenantry on the landed estates and the move to annual leases.⁵⁵ Yet the trust and goodwill

⁵¹ Thompson, *English Landed Society in the Nineteenth Century*, 198

⁵² Stone and Fawtier Stone, *An Open Elite?* 15, 269-275; Thompson, *English Landed Society in the Nineteenth Century*, 198

⁵³ Fitzwilliam MSS, Letter book, 732, 17 September, 1832 quoted in Thompson, *English Landed Society in the Nineteenth Century*, 199

⁵⁴ Thompson, *English Landed Society in the Nineteenth Century*, 199

⁵⁵ Thompson, *English Landed Society in the Nineteenth Century*, 202-203. See also Salmon, *Electoral Reform at Work*, 124-128

between landowners and tenants, to defer to the political views of the landlords, persisted in English politics late into the nineteenth century as the landed estates still played a significant role in the local communities. In rural parishes those entitled to vote in Parliamentary or County elections had automatic voting rights in the parish meeting.⁵⁶ Monies for schools, churches, pensions, charities, etc., were part of a practice of benevolence linking property and political influence with locality. It was helped along by the practice of “treating” (another of those wonderful English euphemisms for bribery), particularly where labourers had “scot and lot franchise” and their votes “enabled to turn the scale at an election”.⁵⁷ The influence of local publicans on the tenant vote was not to be discounted:

When your first letter arrived, I desired my friend Mr Walker to secure inns; he did so and thereby secured eleven votes. Buck’s party have since been doing all in their power to get them away, offering to send more horses and voters to them, but in order to keep them Mr Sloley has been obliged to rent their stables for the two days, and to pay for hay and corn according to a scale and to guarantee so many dinners to each.⁵⁸

As another example of the close relationship between parliament and local government, “benefactions”, gifts of money at every election as “a customary payment for public improvements in the town” or “annual payments to the charities, etc. in the town” were not an uncommon practice for ensuring a confluence of local interests.⁵⁹ It was only as landed incomes started to fall that political influence started to wane, although the idea of it persisted into the twentieth century. An election trial judge commented in 1910:

Whatever proper influence might be bought to bear, and it would be a poor thing for this country if those possessing wealth, position and so forth, should not exercise some influence upon those that are, I was going to say under them, but in these days one ought not even to say that, but subject to their influence, in those days, up to 1904, I suppose whatever influence could be exercised properly and fairly with regard to the neighbours and tenants of (a particular) estate, would be exercised in favour of the Conservative cause; but after 1904 the same influence would be exercised with regard to the opposite party.⁶⁰

⁵⁶ Jenks, *An Outline of English Local Government*, 38-50

⁵⁷ Thompson, *English Landed Society in the Nineteenth Century*, 205

⁵⁸ William Callon to Pring, 9 March 1839, Buller of Crediton MSS 1148M/box 11(ii)/31 quoted in Salmon, *Electoral Reform at Work*, 152

⁵⁹ Thompson, *English Landed Society in the Nineteenth Century*, 205

⁶⁰ *Parliamentary Papers*, 1910, LXXIII, Judgment on Trial of Election Petition for Dorset, E. Div, pp. 2-3 quoted in Thompson, *English Landed Society in the Nineteenth Century*, 202

Conclusion

Prior to the first period of reform, franchise enabled a shifting away from reference to any central authority in local interpretation of customs and laws. This developed the ideas of local autonomy “as if (such interpretations) concerned themselves alone” without external intervention and by a selected group that made decisions without reference essentially to the interests of the rest of England, just simply what mattered to their local community, and within that, just those whose interests they represented. The idea of franchise developed within the guilds and was supported by town charters. Couched within it were ideas and beliefs of franchise as being linked to property and locality, and its value lay in access to political control and autonomy, exercised through a variety of local government institutions and practices. The consequences of feudal decay in the fourteenth century, civil wars and then dissolution of the monasteries caused the social and political balance of power to shift further away from central to local. During the first period of local government reform, there was a centralised re-organisation of institutions. The question is whether such re-organisation challenged these ideas and beliefs or strengthened them. The next section considers what happened in the first and second reform periods.

Section 2: First and second reform periods

If the English style of local government was “the enemy of democracy (then) democracy will by its very nature destroy local self-government.”⁶¹

Introduction

This section considers the first and second periods of reform in local government in the context of the ideas and beliefs in a tradition of representation. It argues that ideas and beliefs were reinforced with the institutional changes of the first period. It was the severity of the dilemmas that led to a reappraisal of local government practices in the second period of reform.

First Period of Reform

Once central rule was firmly established again under Tudor rule, and in order to make Britain a strong nation, centralised policies were implemented to re-organise and de-feudalise local government institutions. In this first period of local government reform both vestries and chartered towns and boroughs were legally transformed through the policies of Tudor monarchs to limit freeholder participation in the various Courts which embedded the ideas and beliefs of local autonomy and political power in locality and property. Two innovations marked the first period of reform. Firstly, the use of exclusive franchise linked to the value of property which excluded those of lesser property continued the idea of local government as fundamentally oligarchic. Electoral franchise was realised from property. Secondly, parishes were transformed from religious to civic institutions to fill the gap left by the dissolution of the monasteries.

Municipal rating is born

Township guilds and charters were transformed into incorporations, later termed corporations and their administration was overhauled as a response to the then disordered state of society. Charters were lowered in their value as privileges by being granted or acknowledged to hundreds of boroughs, following a general and

⁶¹ Mackenzie, *Theories of Local Government*, p. 8

uniform constitution in line with royal legal intervention peculiar to the period of granting.⁶² Paraphrasing various statutes of Henry VII and VIII, they:

...declared that there having been in late years remissness in the central control of local jurisdictions, it was now urgently necessary for the furthering of justice and the commonweal strictly to enforce the same with the approval of Parliament and public opinion.⁶³

To reinforce this strong system of central government, it was Tudor charters that bestowed municipal rights and confirmed a range of legal authorities (civil and criminal) on the office holders of Mayors and Justices. Whereas previously there was the distinction between townsmen and others, between guild members and outsiders, the only difference was now between the ruling classes and the rest of the burgesses. The old guild brethren were transformed into “freemen” or “freemen of the borough”. There was a small blossoming of democratic franchise when initially the commons or commonality had the right of a free burgess and free trade and to choose by franchise the mayor and others officers out of their own.⁶⁴ This was to change with the innovation of property franchise.

The difference from the time of Henry VII was to limit any franchise by means of taxation on “visible property” or real property, that is, land. Prior to and during the period of the War of Roses, the commonality of a town, unfranchised to a guild and unable to trade, yet taxed and compelled to undertake the more onerous of civic duties, were likely to lay claim to being a part of public business, and at times, to make laws considered “divers ungodly rules and demeaning”. The Mayor and Aldermen at various locations had to suffer the commonality entering a Guild Hall and either taking part in municipal elections or disrupting them. The response was to seek a reinforcing of property qualification through taxation, thus limiting the franchise. As once such instance on the request of the local authorities at Leicester, Henry VII ordered:

And forasmuch as we have been informed, that at every election of the Mayor there, or Burgess of the Parliament, or at any assessing of any lawful imposition, the Commonality of our said Town, as well poor as rich, have always assembled at your Town Hall – whereas such persons as be of little substance or reason, and not contributors, or else full little, to the charges sustained in such behalf, have had great interest, through their exclamations

⁶² Redlich and Hirst, *Local Government in England*, Vol. 1, 26-27; Weinbaum, *The Incorporation of Boroughs*, 7

⁶³ Redlich and Hirst, *Local Government in England*, Vol. 1, 21

⁶⁴ Thomas Madox, *Firma Burgi* (1726) quoted in Weinbaum, *The Incorporation of Boroughs*, 8

and headiness, into the subversion, not only of the good feeling of our said town, but likely to the often breach of the peace and other inconveniences, increasing and causing the fall and misery and decline of our said town, and the great discouragement of you the governors thereof; for reformation whereof, and to the intent that good rule and substantial order may be had and entertained there, from henceforth we will and straightly charge you, and also command you, the said Mayor, Bailiffs, and twenty-four of our Comburgesses of our said town,...ye jointly choose and call unto you our Bailiff of our said town for the time being, and only forty eight of the most wise and sad Commoners, inhabitants there, after your discretion, of the same commonality, and no more; and you then to order and direct all matters occurrent, or happening amongst you, as by your reason and conscience shall be thought lawful and most expedient.⁶⁵

The linkage of property ownership to the degree of franchise that can be exercised gave rise to particular voting and rating of property practices and diversity in practice through local bodies. Care needs to be taken in making an assumption that any actual practice was applied evenly however the principal idea was the same – franchise became limited, exclusive, linked to property and locality and reinforced by Act of Parliament. This practice in English institutions became evident across the evolution of county meetings, corporations, open and closed vestries though “numerous local customs and peculiarities” and the development of common law in response to changing social and economic patterns.⁶⁶ Corporations, by the power of issuing by-laws had enabled a slow process of a more exclusive organisation to enable the commerce and order of the town to fall back into the control of a smaller selected group of townspeople. Using the measure of property, a man’s ability to politically express his opinion was now able to be quantified according levels of property, as well as being used to exclude him from participation.

The transubstantiation of the parishes

The genius of Tudor political administration in response to the social problems caused by monastery dissolution was to secularise the services of the parish vestry. Transforming it from an ecclesiastical function to a representative governing body provided a local administrative unit whose personnel were already part of the locality, known and trusted, and their knowledge of the locality enabled local solutions in dealing with increasing social problems. Liberty from feudalism bestowed a liberty to starve where people could not find employment or support

⁶⁵ Thompson, *An Essay on English Municipal History*, 82-83

⁶⁶ Keith-Lucas, *The English Local Government Franchise*, 13-15, 83-85, 117

themselves by their own labour, leading to problems of poor relief for those unable to work or find work. It was not until late in the reign of Henry VIII that existing records reveal a shift from ecclesiastical to civil functions and then a gradual assumption of secular duties and compulsory taxation to fund the roles and duties of Constable, Surveyor of Highways and Overseer of the Poor, as well as Churchwarden.⁶⁷

With the *Poor Relief Act 1601* the parish became a statutory unit for poor law purposes funded by a local tax called the poor rate in addition to the church rates earlier levied to maintain parish property. Similar to the House of Commons, the parish now had the power to levy taxation, even with compulsion. In assessing the poor rate, the judicial ruling of the day confirmed the practice already used in chartered towns that the standard of ability to pay would be on the “visible estate of the inhabitants both real and personal” – in effect, visible estate meaning real property as land.⁶⁸ When the vestry was settled on and developed as a local government body it was vested with the whole power and whole responsibility of managing poor relief through raising and distributing parochial funds. Over time the roles and responsibilities developed such that by 1834 it was reported:

...almost everywhere the practical influence of the vestry is very great; that it forms, in fact, the ruling authority of the parish, a sort of council of government, of which the overseers are members, and generally the most influential members, but voting among the others, and submitting to be controlled by the majority.⁶⁹

The question then, was it representative of those it taxed? In observing the response to the dilemma of centralist intervention, local government practices demonstrate that it was a positive event for reinforcing ideas and beliefs in the ideas of property, locality, political control and local autonomy. Until 1818, the right to be present at vestry meetings and take part in parish government was not originally determined by statutory or judicial decision rather by custom. Continuing on the practice of earlier centuries, some vestries were closed by “immemorial custom” or “select” in that representatives were self-appointed or selected by either the vicar or a higher level

⁶⁷ Webb and Webb, *English Local Government*, Vol. 1, 37-38, see footnote 6

⁶⁸ Redlich and Hirst, *Local Government in England*, Vol. 1, 24

⁶⁹ United Kingdom, *Poor Law Commissioners' Report of 1834*. Source: Library of Economics and Liberty, at 1.5.32, no pagination. Accessed from <http://www.econlib.org/library/YPDBooks/Reports/rptPLC7.html#firstpage-bar> Viewed 11 December 2015

dignitary such as the Bishop.⁷⁰ (While some parishes were open, most gradually became closed by various Acts.⁷¹) Secular oligarchy was achieved by writing into the vestry rules a quorum of around twelve or sixteen men or by seeking an official ecclesiastical order limiting the size of vestries, as well as transforming them from open to closed. By actively seeking official statutory confirmation of select status, parish vestries were able to establish a quorum or minimum number to conduct parish businesses, generally arguing:

Through the general admittance of all sorts of parishioners until their vestries there falleth out great disquiet and hindrance to good proceeding by the descent of the inferior and meaner sort of the multitude...being greater in number and more ready to cross the good proceedings for the benefit of the church and parish than able to furnish by counsel or otherwise the good thereof.⁷²

Even contributing monies to the parish was no guarantee of success:

...no Churchwarden or Overseer for the Poor do make any person whatsoever a parishioner of this parish who was not so before, by receiving of him or her any sum or sums of money for church or poor, without having first taken the order and direction of a vestry to be called for that purpose, only such qualified by law excepted.⁷³

Once the vestry meeting is called, formal resolution was sought and minuted:

...from time to time that certain named inhabitants, 'being persons of ability, credit and reputation, be and are hereby admitted parishioners of this parish, and that the Churchwardens and Overseers of the Poor do receive their several and respective rates'.⁷⁴

Some landowners not being resident in a parish had no right to attend meetings.⁷⁵

Living as a resident within the parish bounds was also not a qualification for franchise even if taxed. Arbitrary minimums of rental were imposed and gender was used as a bar as some Minutes of parish vestries demonstrate:

Resolved that it is the unanimous opinion of this Vestry that no person ought to vote for a Beadle but housekeepers renting £10 a year and rated to the poor. It is also the opinion of the Vestry that persons being six months in arrear for their Poor Rates ought not to interfere in the election of parish officers of any description, and that the Overseers be requested to be particularly attentive to

⁷⁰ Webb and Webb, *English Local Government*, Vol. 1, 175, 186, 190-195

⁷¹ *Ibid.*, 197-211

⁷² Foster, *The Politics of Stability*, 43. See also footnote 4

⁷³ Webb and Webb, *English Local Government*, Vol. 1, 105

⁷⁴ *Ibid.*, 105

⁷⁵ Keith-Lucas, *The English Local Government Franchise*, 13

persons of that description coming forward to vote after the present occasion, that the payment of their rates be enforced.⁷⁶

Whereas the lectureship of this parish being vacant upon the death of (the incumbent), and the inhabitants intending tomorrow to proceed to choose another lecturer in his room, it is hereby agreed that no person be allowed to vote until all his taxes be paid. It is also agreed that this Vestry is of the opinion that the ladies and gentlewomen, widows and maidens, who pay and stand charged have not a right to vote in this election, there being no precedent in this parish for the same.⁷⁷

It depended on the how statutes and legal decisions interpreted whether a person was actually resident or owned and rented land or houses, whether male or heads of households, whether receiving alms from the parish for a period of time. In one ruling on whether to allow an open parish vestry of inhabitant adult ratepayers or the “major part of the chiefest and most discreet” of the inhabitants and parishioners to vote on an appointment, the Court found in favour of the former, despite the fact the judge expressed the opinion the constitution of the Open Vestry had:

...a strong badge of antiquity. I presume that formerly a few of the principal people of the parish met and settled the business themselves, and the rest of the parish was obliged to them for taking the trouble on themselves, and did not interfere.⁷⁸

To confuse matters, the practice in one parish was not necessarily repeated in another.⁷⁹ While some vestries were open, others were closed (by “immemorial custom”, by diocesan grant of authority, by Act of Parliament between the seventeenth and nineteenth centuries) or select. Select status meant a particular group of people voted amongst themselves and were able to govern without popular voting – the “Gentlemen of the Four-and-Twenty” or the “Twelve”, or similar grouping of men of respectability and discretion whose decisions were reinforced by Act of Parliament.⁸⁰ Largely select/closed status was preferred, and increasingly for reasons of excluding the increasing multitudes of towns from taking part in parish and local government business. As various justifications ran:

...for avoiding of tumult and future strife ...the parish being much increased by many buildings and the parishioners finding many inconveniences by a disagreeing multitude, made complaint to the Archdeacon of London for a

⁷⁶ Webb and Webb, *English Local Government*, Vol. 1, 106

⁷⁷ *Ibid.*

⁷⁸ Webb and Webb, *English Local Government*, Vol. 1, 176, see footnote 1

⁷⁹ *Ibid.*, 14-15

⁸⁰ *Ibid.*, 179

reformation, whose then official...approved of a select number of vestrymen under his handwriting in our Vestry book.⁸¹

...there would be great confusion if the whole parish should be electors...(even) election by three-pound subsidymen will be popular, and incite the ruder sort to extreme liberty.⁸²

In short, there was taxation but not full representation, a problem that was to become intolerable.

And then times changed...

Over two centuries corporations, boroughs and vestries muddled along serving the problems of local areas without substantial problems until the nature of town and country economies and populations changed. Happy to let the parishes deal individually with local issues as those who eventually ended up in charge saw fit, after the initial Tudor reforms there were no moves by Parliament to take a whole of country approach to parish/vestry administration and constitutional reform. The only common idea was of exclusive franchise being connected to locality and property as the normal practice of township and parish, and was confirmed by individual statutes and various judicial rulings.

As with the chartered towns, the practices of both corporations and parishes demonstrated a continued belief in the ideas of locality, property, political control and autonomy. While the first period of reform was really more an administrative tidy up of institutions, these institutions and their practices continued in an oligarchic manner to serve the interests of their members, rather than the whole community. In rural areas with tenants dominating largely open parish vestry meetings, it was easy to ensure trading off of generous poor relief against tenant rentals, thus ensuring much of the parish paid for poor relief in a manner that benefited the smaller tenant farmer group.

This may not have been such a problem initially. Over the seventeenth and eighteenth centuries England started to experience changes in agricultural practice such as enclosure of commons for pastoral profits, and the “improvement” of the landscape by wealthy merchants buying up and developing country estates. Long-held conservative rural values, upheld for much of the period between the first and second reforms, were in decline. The political economy was shifting in favour of

⁸¹ Webb and Webb, *English Local Government*, Vol. 1, 191, see also footnote 3
⁸² *Ibid.*, 191

towns where rural domestic manufacturing was to be supplanted by the mechanised “dark satanic mills” now the source of employment for once rural labourers.⁸³

The application across England of the 1795 Speenhamland principle, developed as a response to what was a local problem affected how poor relief was to be granted to labourers, began to create significant financial burdens for parishes with resultant political pressure for change. Leading into the eighteenth century, the burden of rates was not meeting the demands placed on it over much of England, yet those who played a part in vestry decisions were not concerned overly with the consequences of their very local decisions. The practice of trading off rents for rates, shifting the burden for paying labourers onto the parish, was a constant finding in the 1834 Poor Laws Commission. It was exemplified by the testament of one witness, living in a parish for thirty five years, farming for twenty and a constant attendee of the parish vestry for fourteen:

To what do you ascribe the fact, if fact it be, that the attempts to procure additional labour for the paupers in this parish, and to obtain a more efficient management and a considerable reduction of the poor's rates, have been generally coldly received or thwarted, or openly opposed and defeated. Take time to consider your answer?—I know that the farmers would sooner have high rates and low rents, than high rents and low rates; that, I believe, is the general feeling. The farmers like that their men should be paid from the poor-book.

If the farmers had the option of paying 75 per cent. in poor's rates, and 25 per cent. in rent, or 75 per cent. in rent and 25 per cent in poor's rates, which do you believe they would prefer?—The low rents and the high rates, undoubtedly.

Have you ever heard them state this sentiment openly?—Yes, openly in the vestry.

Have you heard them declare this since 1830?—Yes, and before that time too.

How low do you think the farmers would be willing to have the rates reduced?—I do not believe they would be willing or care much to have them reduced much more than they have been; the great farmers in particular I do not think want them reduced. Whilst the rates are as they are, they can always get what hands they want extra, and as soon as it rains they can turn them all on to the parish again; and besides that, they can make the shopkeepers, the lodging-house keepers, and other persons pay a proportion of the wages of the men they turn off. Sometimes they have taken men off the parish for half a day, and have made the parish pay for the other half of the day.

⁸³ Everett, *The Tory View of Landscape*, 19

Do the farmers consider that they have a permanent interest in the land?—No: there they have not; they hold mostly from year to year, and hardly consider themselves as more than birds of passage.

Do they not see, as a result of this system, the total pauperization of the whole of the labouring population, and the total destruction of all property, unless some strong measures be taken to save it?—They feel no danger; as soon as they find that they are losing money, they can go. I have no doubt this is their feeling. Their whole course of conduct shows it, though they do not express as much.⁸⁴

There were unintended consequences from the attempt to “settle the weekly income of the industrious poor” forty years earlier when combined with the behaviour of ratepayers:

The persons who sway the vestries would, from what I have observed in many instances, be averse to any measures that would render the labourer independent of parish assistance, which, by keeping him to its confines, retains him always at their command when wanted for urgent work.

In nearly all the agricultural parishes, it will be found that by indirect modes the householders pay a portion of the wages of farm labourers; clothes, shoes, payment of rents, allowances for children, are, when such subjects are brought forward in vestries, not allowed to be a payment of wages; and I have heard it observed, Why should the farmers keep their labourers all the year, to save the gentlemen and householders from poor-rates?⁸⁵

The consequences of local autonomy were economically disastrous when combined with poor relief policies, as various localities experienced:

Marden, formerly one of the most prosperous parishes in Kent, in which the rates are now more than 2*l.* per head on the whole population, being about four times the average expenditure throughout England, in consequence of the opposition to tithes on the part of the farmers, and their determination to throw on the lessee of the great tithes part of the payment of wages; and Great Hawkesley, in which, while a dispute concerning tithes continued, the rates amounted to 1800*l.* a year, a principal farmer hired the tithes, and made an arrangement with the occupiers, and they then fell to 1000*l.*⁸⁶

Such local decisions enabled some control over local circumstances yet the impact was economically destructive to the wider country. Limited franchise vested in

⁸⁴ United Kingdom, *Poor Law Commissioners' Report of 1834*, Mr Chadwick Appendix A Part II. Source: Online Library of Economics and Liberty, 1.5.38, no pagination <http://www.econlib.org/library/YPDBooks/Reports/rptPLC7.html#firstpage-bar> Downloaded 11 December 2015

⁸⁵ United Kingdom, *Poor Law Commissioners' Report of 1834*, Appendix A Part I, 297. Source: Online Library of Economics and Liberty, 1.5.38, no pagination <http://www.econlib.org/library/YPDBooks/Reports/rptPLC7.html#firstpage-bar> Downloaded 11 December 2015

⁸⁶ *Ibid.*, Appendix A Part I, 232.

property ownership as an idea was being weakened by economic and social changes affecting the largely unrepresented poor.

In towns the largely closed parish vestries became increasingly unpopular in the way they exercised their arbitrary powers and spending of parish funds. Those compelled to pay for services through various forms of rating often had no part in setting the actual rates. There was little redress by unhappy ratepayers against the rates levied on them by various institutions. Those who were able to set the rates were also those making the decisions on the amount of rates to be levied and how they were to be spent. Corruption as “jobbing” existed:

Jobbing in the supply of the workhouse was once carried to the fullest extent. The farmers sent in all the different articles, corn, pork, fuel, &c., and charged their own price; they sent favourite labourers for relief, which was paid to them in produce; they hired cottages with their farms, and underlet them to their labourers at 6*l.* and 7*l.*, which was paid out of the parish purse; thus some farmers—what with rents and the supply of the workhouse—paid all their rates, and had money besides to receive from the parish; high rates furnished an irresistible argument against the rents of the proprietor, who, if absent himself, and not represented by an agent, his own tenant acting in collusion against him, found his property wasted away by a conspiracy which he had no means of detecting. A gentleman of considerable estate, with the assistance of an occupier, who was a man of education and intelligence, determined to put a stop to this: they attended every vestry; they cleared off the debts, and reduced the rates from 15*s.* to 6*s.* 6*d.* in the pound.⁸⁷

While some parish vestries exercised their powers well, others provoked a number of unsuccessful attempts at reform in parliament as early as the *Poor Law Amendment Act 1697*, seeking to establish elected bodies in the place of all select vestries inside and outside of London.⁸⁸ It was not until the early nineteenth century that reforms started to have some success, even though early bills and legislation still linked the value of a vote to the level of ownership of property.⁸⁹

It was the rise of the Justice of the Peace in the interim between first and second reform periods in local government administration who took oligarchic practices one step further by excluding the parish itself from exercising autonomy in the locality. From the seventeenth century onwards, especially if it were an open vestry, Justices of the Peace bypassed the increasingly inefficient parish administration by instituting the development of new bodies such as Turnpike Trusts, Incorporated Guardians of

⁸⁷ United Kingdom, *Poor Law Commissioners' Report of 1834*, Appendix A Part I, 181.

⁸⁸ Keith-Lucas, *The English Local Government Franchise*, 20

⁸⁹ *Ibid.*, 27

the Poor and Street Commissioners, directly appointing officials to them and making them answerable to the Justices. It comes as no surprise then, as a representative body, up until 1835 the “vast majority” of vestries were described little oligarchies of:

...intimate neighbours, tenants of the squire, and employers of the paupers, presided over by the clergyman or Senior Churchwarden, and dominated by the neighbouring Justices of the Peace.⁹⁰

Circumvention of franchise by property or selection was one way to deny a popular principle and thus control both property and local autonomy. It was the next step - the creation of the statutory committees - that enabled circumvention by delegation. Where parish officials decided amongst themselves the need for better control of local matters without referral to popular voting, they sought the support of the House of Commons for legislation aimed at restricting the rights of the inhabitants who still had any right to vote on parish matters.⁹¹ As early as 1734 an open parish vestry in a metropolitan area was proving unmanageable and unable to carry out parish business, the meetings “clamorous proceedings” filled with “irregular behaviour of the great multitude of persons” attending.⁹² The shifting of populations to industrial towns created similar problems for open vestries which were often stacked by angry ratepayers determined to unseat the parish parson as president and take control of the warden’s parish funds:

Imagine the parish church packed with a Radical mob standing and sitting everywhere, some perched on the altar, all showing their detestation of Tory merchants, mill owners, and shopkeepers and their hatred of the Established Church concentrated on the parson and parson’s warden.⁹³

The turbulence of such meetings discredited the idea of government by all the ratepayers, not helped along by reporting in newspapers:

...the meeting was made up of the lowest scum of the town, the most riotous, disorderly, ill-clad, ill-assorted, and uncivilised portion of the population, who had no capacity to understand the question at issue, who violated all the ordinary rules of decency, and desecrated in disgusting manner the church it was necessary to hold the meeting in. The scene had literally all the features of a bear-garden. From one to two thousand persons, for the most part unwashed, unshaven, and in rags, had taken possession of all the pews in the church before the proceedings commenced, most of them having their hats on, and the

⁹⁰ Webb and Webb, *English Local Government*, Vol. 1, 49

⁹¹ *Ibid.*, 151

⁹² *Ibid.*, 91

⁹³ Cumbræ-Stewart, “The English Background”, 35

majority standing upon the seats or the backs of the pews; subsequently crowds of these people made their way into the gallery, clambering from seat to seat, and covering with filth the seats and cushions on which they trod.⁹⁴

As vestries became the focus for local and political (notably Radical) concerns to be aired in mass meetings, Parliament was turned to for legislative protection. Between 1819 and 1870, a series of Acts set up a range of independent statutory committees which worked to remove decision-making by voting from the larger effectively administratively unworkable open vestries.⁹⁵ Plural voting was used within the committees, thus favouring the larger ratepayers and landowners. Qualifying for an appointed role in the trusts and commissions was also restricted by property and religion, a throwback to an earlier discontinued Act. The practice of keeping out those not of Anglican or Tory persuasion was not popular in either parishes or corporations:

Many dissenters who reside in the town are persons of considerable property and respectability, and occupy stations in life from which common councilmen are usually selected, but none of them have ever been admitted to the Corporation.⁹⁶

Corporations were also coming into disrepute as local government institutions. As with the parishes, they were found lacking in the ability to deal with the problems of increasing populations in towns. The Tory commitment towards corporate property interests, rather than town welfare resulted in town management where even minimal local government functions failed to be carried out in a number of places. They were largely considered:

(S)elf-elected, self-delegated, and irresponsible; and hence they had no authority, and commanded no respect, or not such respect as they ought, as rulers of the people to enjoy.⁹⁷

Spurred on by the Whig-dominated 1817 House of Commons Select Committee examination of the Poor Law, the *Municipal Corporations Act 1835* changed the face, at least, of local government. Prior to 1835 municipal corporations existed and operated within their own charters, including in a measure of local custom. Noting

⁹⁴ Wheeler's Manchester Chronicle, 11 July, 1835 quoted in Webb and Webb, *English Local Government*, Vol. 1, 101

⁹⁵ Keith-Lucas, *The English Local Government Franchise*, 38, see footnotes 1-8

⁹⁶ United Kingdom, *Municipal Corporations in England and Wales. Royal Commission 1st Report*, appendix, part IV, p. 2152: *Parliamentary Papers 1835* (116), xxvi, 74 quoted in Hennock, *Fit and Proper Persons*, 309

⁹⁷ George Edmonds, speech at the town's meeting 30 October 1837. B.J. 4.11.1837 in J.T. Bunce, *History of the Corporation of Birmingham*, Vol. 1, (Birmingham, 1878), 117 quoted in Hennock, *Fit and Proper Persons*, 19

that active participation in a town corporation was limited, the first Reform

Commissioners were scathing on corporation performance:

It has become customary not to rely on the Municipal Corporations for exercising the powers incident to good municipal government... They have the nominal government of the town; but the efficient duties, and the responsibility, have passed to other hands.⁹⁸

By the mid-to-late nineteenth century, overhauling a local government system built up over centuries took on greater impetus as the problem of bridging the gap between demands for services and paying for them grew. The ideas supporting limited franchise might have persisted if it were not for the cumulative effects changing economy and society and the unintended consequences of concentrating of local decision making into the hands of a few. A tradition of representation built on ideas and beliefs of property, locality, political control and local autonomy was now faced with two dilemmas: centralised intervention and democracy.

Second period of reform

Respect for parliamentary members was declining through the presence of the rotten and pocket boroughs, and not helped by the failure of parish vestry and town corporations to address the problems they were set up to prevent. A weakening of the social fabric that had sustained English society for so long was evident in the shift of political power from country to town, from agriculture to commerce. Add to this an economy with a national debt accumulated through the Napoleonic Wars, and then a peace-time marked with the devaluation of currency and the opening of England's markets to free trade, and agricultural and manufacturing interests began to point to the discrepancy between those who paid rates and taxes and those who received benefits from these and began to lobby for reforms.⁹⁹ It was to take over a century of reforms to finally achieve democratic municipal franchise (one vote, one value), although the idea of having a vote in a municipality if a person, although not resident, is an owner or occupier of land still survives.

The idea of democracy as "one vote one value"

Centralised intervention in municipal franchise was how change was achieved, rather than from inside local government bodies themselves. Ironically it was the matter of property that provided the wedge for change. The money required to pay for local

⁹⁸ Jenks, *An Outline of English Local Government*, 182-183

⁹⁹ Moore, "The Other Face of Reform": 20-21

authority activities was raised on the landowners. As earlier pointed out, social and economic change were creating significant issues with an increasing poor rate, and it was the Tory landowners who found themselves having to accept extending the franchise if the rates burden was to be more fairly shared. The 1835 Municipal reforms were more a concern over how monies were spent than democracy and they still ensured that public monies were to be spent only on the authorisation of Parliament. It was the steady work of the enterprising city corporation reformers that started to change attitudes on the role of local government and its ability to provide services. The exclusivity of certain ratepayers to choose their representatives was shifting in light of how new services affected everyone in the city, raising the claim that where everyone was affected, everyone should have a voice in elections and more so because the cost of municipal works was increasingly being paid by all in the State, not just those in the municipality.¹⁰⁰

Who ended up with a franchise in the reformation of the boroughs was of distinct concern to landed interests in the 1831 debates. There were real fears that if urban freeholders who owned more than five acres of land were admitted to the county vote, then they would overpower other county constituents' votes. It was, as one parliamentarian described them, "the vast and solid riches of those middle classes, who are also the genuine depositaries of sober, rational intelligence, and honest English feeling", who were likely to have the strongest political influence.¹⁰¹ The 1831 Act did provide for an enlarged number of constituencies for urban middle class representatives. At the same time it also reinforced the political powers of the landed elites with their control of a majority of small boroughs for the best part of fifty years.¹⁰² The 1832 Reform of franchise was barely in place when more franchise and municipal reform was proposed in 1835. Expressing the idea that democracy was the preserve of men of property, the Leader of the Tories in the House of Commons was not opposed to corporation reform but spoke harshly that the Bill:

¹⁰⁰ Hill, *Democratic Theory and Local Government*, 57; Keith-Lucas, *The English Local Government Franchise*, 10-11. See also Hennock, *Fit and Proper Person*

¹⁰¹ E.P. Hennock and D.C. Moore, "The Sociological Premises of the First Reform Act: A Critical Note", *Victorian Studies*, 14, no. 3 (March 1971): 333

¹⁰² Moore, "The Other Face of Reform": 33-34

...rejects with scorn the doctrine that poor men are not fit to exercise political power – when that doctrine aids democratic influence...¹⁰³

Property qualification was accepted, although there were distinctions, and the idea of wards was used to limit the electoral influence of Radicals. Importantly, the vote was given to all resident ratepayers but not to those who occupied tenements, labourers, “and thereby entrust the franchise to a class of persons who may not exercise it in the manner contemplated by the Bill.”¹⁰⁴ The middle classes having achieved political influence, the *Municipal Corporations Act 1835*:

...struck at once and completely at (the Tories) local predominance, their social superiority, their dealing at pleasure with the rates and the property of towns governed either by self-elected bodies or by narrowly restricted franchises.¹⁰⁵

Another view from the Government benches considered the combined impact of the ten pound parliamentary franchise granted in 1832 and the household municipal suffrage was a more long term democratic change, as it enabled the rise of the Dissenters to contest elections and influence legislation.¹⁰⁶ Although the 1835 Act did not provide a wider franchise, and there were significant problems in its drafting that came to light only when implemented, it widened the idea of who could have access to franchise.

If there was slowness in reforms, it was due to the influence of those who argued against the centralising tendencies of Parliament as “state interference” and the cost of implementing new laws. As one example, preference for local autonomy was extended as an argument against the 1848 Public Health Bill – the problems of township poverty and sickness should not be interfered from outside:

The bill is but the beginning of an attempt, under the pretence of providing for public health, to regulate by legislation, by boards and commissioners, every business in every town of the empire, just as working in factories and mines has been lately taken in hand by legislation, to the punishment of the men and the dismay of the masters...(poverty in towns) is more likely to be aggravated by the restrictions on employment and the cost of the law than relieved. While

¹⁰³ R. Peel, 2nd July, 1835, *Croker Papers*, Vol. 2, 280 quoted in Keith-Lucas, *The English Local Government Franchise*, 53

¹⁰⁴ *Mirror of Parliament*, 22 June, 1835, 1484 quoted in Keith-Lucas, *The English Local Government Franchise*, 56.

¹⁰⁵ J.T. Bunce, *History of the Corporation of Birmingham*, Vol. I, (1878), 347 quoted in Webb and Webb, *English Local Government*, Vols 2-3, 750

¹⁰⁶ W.T. McCullagh Torrens, *Memoirs of Lord Melbourne*, Vol. 2, (1878), 347 quoted in Webb and Webb, *English Local Government*, Vols 2-3, 750. See also Hennock, *Fit and Proper Persons*: 221-222 for one confirmation of Lord Melbourne’s prediction.

it will increase poverty it will put an end to neighbourly assistance; it will check enterprise and self-exercise; it will beget reliance on boards instead of reliance on self; and by weakening the intellect and increasing the dependence of the people on government, it will in the end more retard than promote the improvement of health.¹⁰⁷

It was the unintended consequences of the permissive 1850 *Small Tenements Rating Act* (only intended to deal with the payment of rates) that was to increase the number of voters in parishes where it was adopted, thus extending the franchise to the working class labourer.¹⁰⁸ Yet pressure against reform continued, as this example of lobbying shows:

That the effect of the Bill would be to exclude a numerous body of gentlemen in every county in England, from the transaction of Financial business in which, as Magistrates and Proprietors, they have an immediate and extensive interest, and which, under the authority of successive statutes, they and their predecessors have conducted for a long period of time to the advantage, and generally to the satisfaction of the public, and to substitute for them a small and fluctuating body of men, who would in many cases be less fitted for the discharge of such duties, and who would individually have a much less degree of pecuniary interest in the counties in which they live.¹⁰⁹

Yet by a progressive series of Acts, franchise was slowly transformed and extended to what is recognised today as a democratic, inclusive idea.

The role of the parish vestry was effectively removed from local government as a statutory institution by the *Poor Law Amendment Act of 1834* and the *Local Government Act 1894* and returned back to ecclesiastical duties. No longer taxing and administering the Poor Rate, and with even the open parish vestry meetings in large industrial towns losing their significance when non-conformists refused to pay the Church Rate, the parish vestry lost its utility.

The corporation as a municipal institution likewise disappeared to be replaced by Councils and countrywide municipalisation. Only the Corporation of the City of London was able to hold out and retain administrative control in the oligarchic hands of its ancient City Companies and even that changed by the end of the twentieth century with a now elected Council. As a final note, the 1918, 1928 and 1948

¹⁰⁷ *The Economist*, 20 May 1848, 565-6 quoted in Thornhill, *The Growth and Reform of English Local Government*, 40-41

¹⁰⁸ Keith-Lucas, *The English Local Government Franchise*, 71-73

¹⁰⁹ Quoted from the *Report from the Select Committee on the County Rates and Expenditure Bill*, 20 June, HCP, 1850, Vol. 13, 1, quoted in Thornhill, *The Growth and Reform of English Local Government*, 37

Representation of the People Acts established one standard universal franchise for all local government purposes.¹¹⁰

Conclusion

Through the first period of reform the ideas and beliefs surrounding franchise were reinforced until social and economic changes prior the second period significantly challenged the nature of franchise. Franchise was no longer the preserve of the propertied man to dispose of municipal taxes. By the early twentieth century local government was democratically engaged to use municipal rates for provision of widespread services and much needed infrastructure. Full municipalisation in Britain effectively removed the old parishes, corporations and town charters. The dilemmas posed by the second period centralist government ensured a nationwide approach to matters of health, education, policing, health and welfare. The ideas of franchise as relating to locality were replaced with franchise as a fully democratic inclusive idea in practice.

¹¹⁰ Keith-Lucas, *The English Local Government Franchise*, 77, 81

CHAPTER 9 CONCLUSION

Deriving a representative tradition in English local government is a narrative of the evolution of the ideas and beliefs of property, locality, local autonomy and political control that extended from earliest times until the period of second reform. The idea of franchise was developed through guilds and affirmed in town charters, underpinned by accumulation of land as property or as membership of a guild. These ideas were later expressed in the development of plural voting and the creation of corporate votes in local government in the nineteenth century.

The first period of reform enabled administrative changes and further entrenched such ideas in the operation of local government institutions.

It was the events leading to the second period of reform that challenged such ideas and beliefs with the dilemmas of centralisation and democracy through widening the franchise and therefore transforming local government practices in England. In turn with the close linkage between local and central political institutions, reform ideas of how local government should be practiced started to gain momentum over the period of the nineteenth century. A new tradition of representation eventually emerged, based on universal franchise.

How relevant was this new tradition of representation in the development of local government in Van Diemen's Land? Was the form of franchise similar to that of England's? What dilemmas influenced the tradition and how did local government people respond? The next section briefly narrates the story of local government and seeks to elicit what those involved were thinking in shaping local government franchise.

PART IV: REPRESENTATION

CHAPTER 10: THE CASE FOR A TASMANIAN TRADITION OF REPRESENTATION

CHAPTER 10 INTRODUCTION

In Chapter 9 the ideas and beliefs of franchise in a tradition of representation were traced and explored. The co-location of property, locality, local autonomy and political control with the idea of franchise drove the development of that tradition and remained a part of it during the first period of English local government reform. The early incorporations and town charters located property with franchise. The creation of the parish plus the continued existence of the corporations strengthened these ideas through to what is seen today as a confused tangle and web of local government practices. The idea of municipal rating as a layer of taxation was embedded in local government practice. The second period of reform challenged these ideas and beliefs through centralised intervention, creating a nationwide municipal system with widely applicable rules and regulations. Franchise re-emerged as a democratic practice of “one vote, one value”. Chapter 10 builds the argument that the practice of franchise in the colony and State of Tasmania reflected the local government ideas and beliefs of the period prior to the second English reforms. The economic and social changes of the later twentieth century were similar in impact to the outcomes of the second period of English reform. Yet franchise still remains linked to property. It is the persistence of the ideas of property and franchise and the ideas and beliefs associated with these that form the kernel of Chapter 10 and the consideration of whether this has contributed to the problem of resistance to reforms such as amalgamation. The question is, is the nature of franchise and the ideas and beliefs underpinning it a contributory factor to the resistance to amalgamation?

CHAPTER 10: THE CASE FOR A TASMANIAN TRADITION OF REPRESENTATION

Owing to the small size of the country, and the great moral influence of the landed gentry, Tasmanian politics are singularly peaceful...Tasmanian society is cast in a more aristocratic shape...the most oligarchical of all our colonies...but even here...the ballot is supported by the Conservatives.¹

Municipal franchise

Much of this thesis has covered the linkage of property with the state of colonial society in Tasmania. As in England, franchise was and remains linked to property in local government. Franchise was a matter of British birthright. The colonial settlers held out for the full parliamentary rights rather than take on the path of evolution that occurred in England with its feudal court administration and borough town charters evolving into vestry and corporation institutions. They wanted to send their own representatives into their own colonial parliamentary House of Commons. Franchise was an important issue for the free settlers. It was finally achieved at a parliamentary level through the staged development of a Legislative Council well before any widespread local government administration had developed in colonial Tasmania.

Local government franchise was another matter. The development of local government in Van Diemen's Land was inhibited by it being a convict colony. Again, as detailed in earlier chapters, the matters of transportation, taxation and local government institutions were entangled in the demands for British birthrights. When local government was developed, it settled on a franchise that was restrictive, plural, property based and non-compulsory. Today, while universal suffrage exists at other government tiers, voting in local government elections requires a ratepayer to own or lease property within a municipality. Plural franchise and the linkage to property persists today although it is more restricted than when it was first introduced. Even in the watershed 1989/1993 reform period the franchise kept its linkage to property.

¹ Dilke, *Greater Britain*, 361

The management of roads in declared districts, while part-funded by the Colonial purse and part by rates and or tolls, was the first devolution of responsibility to local communities in 1840 on a voluntary basis. Local landholders who qualified as electors under a plural voting system elected Commissioners to act on their behalf. The consolidation of populations in the initial settlements of Launceston and Hobart led to the creation of municipal structures in 1851-1852. The first elections for these were dominated by the transportation issue. Municipal franchise for the rest of the State was granted by the *Rural Municipalities Act 1858* two years after self-government (1856) and was gradually taken up by most of the settled districts. The franchise was non-compulsory, property-based and plural on a property scale. Economic conditions by the end of the nineteenth century contributed to local government reform in the early years of the new millennium, but it then took another 89 years before any significant reforms to occur again. Only in the second century of settlement, with the rise of a Labor Party and full adult suffrage and the removal of property qualifications to hold office, was political control eventually wrested to the centre in the last two decades. If in the nineteenth century the wealthy elite controlled the shape of local government, in the late twentieth and twenty-first centuries it is the State's political parties which are taking this role.

The nature of the vote is the issue. Was the longevity of the plural franchise and its remnant today, the General Manager's Roll, a contributing factor to resistance to reform? Is this a reflection of the persistence of the idea that those who have an interest are those that should exercise the vote?

Attitudes on franchise

The common theme emerging from England prior to the second period of reform was limited franchise based on property. The same can be seen in attitudes expressed from colonial days to today. As has been mentioned in other chapters, in nineteenth century Tasmania the landed interests distrusted the masses gaining access to the franchise. The introduction of plural voting – that is, a scale of votes in accordance with a scale of property - was implemented in Van Diemen's Land and tied property to exercise of democracy. As Reynolds calculated, it restricted the franchise to a select group and within that group those with the greatest property outweighed the

influence of the least.² Such a franchise is based on the principle of to the greatest property interest, the greatest right to franchise - an idea that was effectively very old by the time Mill wrote on it:

The proper constitution of local representative bodies does not present much difficulty. The principles that apply to it do not differ in any respect from those applicable to the national representation...As the principal duty of the local bodies consists of the imposition and expenditure of local taxation, the electoral franchise should vest in all who contribute to the local rates, to the exclusion of all who do not...The representation of minorities should be provided for in the same manner as in the national Parliament, and there are the same strong reasons for plurality of votes...that there is more justice as well as policy in allowing a greater proportional influence to those who have a larger money interest at stake.³

This “proper constitution” was built up by surveying the long history of franchise and its practice. In invoking the “Glorious Revolution of 1688” in their petitions for British rights, the substantial free settlers of Van Diemen’s Land were invoking the right to replace the divine right of kings (in this case, the Lt-Governors as representatives of the King) with the divine right of property.⁴ In Van Diemen’s Land the legislative development of franchise was by the propertied classes for the property classes. They were simply echoing the sentiment of the English *Property Qualifications Act 1711* which ensured only men with land ownership qualified to enter Parliament:

...for when landed gentle[men] represent us in Parliament, and do our business at home in the country, we may justly look for better times, and that our tottering constitution may be more fixed to the confusion and amazement of all its adversaries.⁵

Mill was writing at a time when England was well into the second period of reform so it is reasonable to assume that this opinion was part of this period. It was also an idea that existed well before the second reform period. How franchise was to be practised was contentious. The idea of universal franchise was at one point expressed to be considered the “grave of all temperate liberty, and the parent of tyranny and licence.”⁶ This was an attitude expressed post the French Revolution

² Reynolds, “Regionalism in Nineteenth Century Tasmania”: 21-22

³ Mill, *Utilitarianism, Liberty, Representative Government*, 348-349

⁴ Melville, *The History of the Island of Van Diemen’s Land*, 10, 64-65; Geoffrey Holmes, *Britain after the Glorious Revolution 1669-1714*, (London: Macmillan, 1969), 7

⁵ Lincs. RO, Massingberd MSS 20/93: to Burrell Massingberd, 1, quoted in Holmes, *Britain after the Glorious Revolution 1669-1714*, 146

⁶ Earl Russell, *English Government and Constitution*, 263, quoted in James Lorimer, *Constitutionalism of the Future*, (Edinburgh: Adam and Charles Black, 1865), 188

when that country's society descended into the Terror. Democracy has had a similar fate being a concept that carries a quantity of philosophical and political baggage – there are comments of concern about “ultra-democracy” where “mass vote will be supreme without any check”.⁷ In 1848 Marx was expounding his socialist doctrines and being viewed with great suspicion by Australia's landed classes.⁸ In Van Diemen's Land, there was a largely unwarranted fear of the convict class combined with a desire for strong local government away from the centralism of the Lt-Governors.⁹ It is therefore unsurprising that a plural property franchise appeared. The 1858 *Rural Municipalities Act* had a plural voting system of between one to ten votes in a sliding scale of annual value of property of between £15 and £450 and upwards.¹⁰ Section 18 of the Act was:

...highly important as it secures to the those who pay taxes votes in proportion to the amount.¹¹

Distrust around universal franchise persisted, as this 15 February 1864 extract from Tasmanian parliamentary member William Archer demonstrates:

Reading Bright's and Cobden's speeches at Rochdale. They are undoubtedly men of great oratorical powers; but there is some of their ideas & propositions somewhat unpractical. In the main, however, their aspirations after a more extensive system of education among the people, and the extension of the suffrage, they are doubtless in a measure right; yet there is something in the nature of the relationship between the working man & the rich which would scarcely be met by education merely, or an extended franchise.¹²

Wealthy settlers such as Archer would also be concerned to read of churches packed with Radical mobs “standing and sitting everywhere, some perched on the altar, all showing their detestation of Tory merchants, mill owners, and shopkeepers and their hatred of the Established Church concentrated on the parson and parson's warden”.¹³ If we substitute the word “convict” for “Radical” it would not be too long a stretch to

⁷ Smith Papers (1) James (“Philosopher”) Smith and Others: 1827-1964, *Reports on the Historical Manuscripts of Tasmania Numbers 1-7*, 18

⁸ F.C. Green, “Heroes in the Fight for Responsible Government”, *Tasmanian Historical Research Association Papers and Proceedings*, 6 (1957): 21-22

⁹ Stefan Petrow, “A Case of Mistaken Identity: The Vandemonian Spirit and the Law”, *Tasmanian Historical Studies*, 6, no. 1 (1998): 23-26

¹⁰ *Launceston Examiner*, 3 April 1858: 2 lists the provisions of the Act.

¹¹ *Launceston Examiner*, 3 April 1858

¹² The Archer Papers (2) Journal of William Archer: 1856-1858; 1862-1874, *Reports on the Historical Manuscripts of Tasmania Numbers 1-7*, 18. See also Richard Cobden, *Speeches on Questions of Public Policy: Free Trade, Peace, Good Will Among Nations*, ed. John Bright and James E. Thorold Rogers, 2 vols, London: Macmillan and Co, 1870

¹³ Cumbræ-Stewart, “The English Background”, 35

understand property owners concerns over freeing up franchise to the point of “ultra-democracy”.

F.W. Piesse’s unsuccessful *Local Government Bill* 1900 argued for municipal franchise with a plurality of three votes.¹⁴ Debate over this Bill both supported the idea of plural franchise and opposed it. Alderman Storer (Hobart) argued in the Municipal Association of Tasmania debates:

It was only right that manhood and votership should be the qualification. It did not follow that a man who had seven votes had seven times the brains of another man.¹⁵

Alderman Storer was attuned to the general feeling of the meeting. He said that “if he thought he could carry the principle of one man one vote, he would propose it, but he thought he had better go for a compromise.”¹⁶ He seemed to be attuned to the electorate also:

Mr W.H.T. Brown presented a petition signed by 62 electors of Campbell Town, praying for reform in municipal law, by limiting plural voting to three votes, and giving the general body of electors more voice in the control of municipal affairs.¹⁷

As was Mr J. Earle MHA in the House of Assembly debate over the Bill - he wanted to remove the scale of voting and grant one vote to each elector, arguing the principle must:

...commend itself to all true democrats...The man who held the most land in a locality had not necessarily the greatest interest.¹⁸

In the Legislative Council debates on the 1906/07 *Local Government Bill*, the Hon. R.S. Scott MLC was not alone in the debate reaffirming the principle of plural voting. His comment was supported by other speakers:

Why had they plural votes given at all? Because it was recognised that those who paid the largest amount of rates should have voting power equivalent to the amount paid.¹⁹

The Hon. P. McCrackan MLC argued the contrary point, not agreeing “that because a man had more wealth than another he should have more votes.” His comments

¹⁴ Piesse, F.W., *The Local Government Bill 1900*, (Hobart, 1899), 12

¹⁵ *The Mercury*, 26 January 1899: 4

¹⁶ *The Mercury*, 26 January 1899: 4

¹⁷ *The Mercury*, 1 November 1901: 4

¹⁸ *The Mercury*, 20 July 1906: 6

¹⁹ “Gallery Notes. Legislative Council”, *The Mercury*, 6 September 1906

were described as “ultra-democratic”.²⁰ In later debates over the Bill the Hon. C.E. Davies MLC said he “believed in property having ample voting power” while the Hon. E. Dean MLC:

...saw no reason for reducing the maximum [of seven votes], which was given for the protection of the largest properties. To reduce it would be to assist the latter-day levelling-down process, with which he did not agree. In some districts, such as Bothwell and Hamilton, the seven voters barely balanced the force of the small voters, and he was reluctant to part with any existing privilege.²¹

Plural voting remained. At the Municipal Association of Tasmania the debate over a plan to alter the municipal franchise was unsupported. The Minutes faithfully recorded evidence of a debate where a strong localist property belief was still influencing ideas on who had the “better right” to franchise:

Agenda Item – Municipal Franchise: Warden Connell (St. Leonards) moved and Warden McKenna (Lilydale) seconded.

That this association is opposed to any alteration to the municipal franchise.”

There was a move for adult suffrage with a Bill introduced into the House of Assembly for another purpose, being amended to allow the same.

Cr. Hon. John Hope (Kentish) expressed his sympathy with the motion, and remarked that the franchise was already liberal enough, and that an alteration to deal with adult suffrage would be a step backwards. Who had a better right to vote than the man who paid the rates? Why should the man with the “swag”, who was here to-day and gone to-morrow, have the same privilege as the landowner or the settler who had created something out of nothing? He did not imply that there was any disgrace in carrying a swag, but there was such a thing as recognising those who found the sinews of war. He complimented the St Leonards people on the manly stand they took on that question some months ago.

Warden Rattle (Glenorchy) remarked that he was not in favour of adult suffrage for municipal councils, and urged that there should be a uniform scale of voting in local affairs.

Warden Innes (Devonport), in support, said it was better to give permanent residents the power rather than allow the vote to be dominated by those who were merely travelling through the district for a few days.

Warden Ogilvy (Richmond) was in sympathy with the opposition to the suggested alteration of the franchise, but added that because an injudicious suggestion was made, it was not wise to say they would not listen to any suggestion at all in the future. Any proposal to alter the franchise should be

²⁰ *Ibid.*

²¹ “Parliament of Tasmania. Legislative Council. Thursday 25. Local Government Bill”, *The Mercury*, 26 October 1906

dealt with on its merits. They had not now a perfect franchise, so they should leave it open to consider any further proposal.

Warden Davies (Port Cygnet) opposed the motion, which he thought was inadvisable. Later on they might want to alter the franchise, which he was not in love with, notwithstanding the benedictions of Mr Hope. He was not in favour of adult suffrage in connection with municipal franchise, but he was opposed to the present franchise. The motion would tie their hands.

Council Clerk Farrell (Ringarooma) did not consider it right that properties worth, say, £30 annual vote, should carry a vote both for the owner and the occupier.

The resolution was carried.²²

The belief in property as the measure for franchise was persistent. It was reported prior to the 24 April 1924 local government elections that with six votes on a scale of £30 to £360:

...it cannot be said that the scale is undemocratic or illiberal. The general type of the council which has resulted is probably the best tribute to the franchise.²³

By 1938 the Auditor-General's submission to the Royal Commission noted the history and scales of plural voting that had occurred in the State and commented that even if plural voting "served any useful purpose in the past there seems good reason for it now being reviewed".²⁴ A number of submissions from the Mayors and Wardens disagreed with that opinion, echoing earlier comments on proportionality of votes to value of property being the best means of voting. Plural voting lasted into the second half of the twentieth century.²⁵

The only aspect of it that remains today is the General Manager's Roll, where a person who represents a corporation in a municipality has the ability to vote twice. The idea of one vote, one value is now the norm for voting in municipal elections across Tasmania. Prior to 1993 a person had to apply to be on a local government valuation roll for voting if they were a tenant. Since the 1989-1993 reforms, a person who appears on the State/Federal Electoral Roll will now automatically appear on a Municipal Voting Roll. Yet there is still a link to property ownership. If a person owns or rents property in multiple municipalities, they are still able to vote in each

²² AOT CB 52/5/1 Municipal Association of Tasmania 29 November 1911-11 September 1918, Minutes, Fourth Annual Session, 12 May 1915, 144-145

²³ *The Examiner*, 24 April, 1924: 4

²⁴ AOT RC 19/2/1/1 Royal Commission into Local Government 1938, Terms of Reference Item VI Plural Voting: Submission of the Auditor General, 2

²⁵ Colin Hearfield and Brian Dollery, "Representative Democracy in Australian Local Government", *Commonwealth Journal of Local Governance*, Issue 2 (January 2009): 69

municipality on application to be entered on a municipality's General Manager's Roll. There are shifting opinions about continuing with these Rolls. At interview, Mayors were beginning to reflect a shift in beliefs regarding franchise when it came to the General Manager's Roll:

Cause they're actually getting two votes, they get them both because they are a resident and then they get a vote because they are a company director, so you know, some people are getting two votes and some people are getting one. I think it should be one vote, one person.²⁶

I think that we ought to toss out the General Manager's Roll, I think that we ought to have universal suffrage as we have at the State and Federal level and that ought to be carried into local government, so one person has one vote.²⁷

There is a difficulty in reconciling a right to vote based on owning property in an area and yet participating in the decisions of the community on a daily basis by living elsewhere. The idea of community is the idea of being there, of residing in the same locality. Some Mayors expressed the concern of non-compulsory voting leading to a more self-interested, rather than whole of community, response at elections, while others saw it as the means of ensuring that only those interested in debates actively took part:

I struggle with the General Manager's Roll, in that we allow people to participate in issues within their local community, that they've got a second dwelling or a business. There are times they only partake of that if there is a community issue. Some people do it as a right. Some people only exercise a right if there is an issue that stirs them. So the general involvement in local government, in our local government elections, is probably not as high as it is in our local community who reside here and have basically got one place of residence.²⁸

I think it's probably, I'm about fifty-fifty. If you own a property in our municipality you may be on the General Manager's Roll, you may be operating a business out of there and therefore providing a service to the community and employment to the community or housing to the community and therefore should have a say in what happens in that community. The other, on the other side of the ledger though, if you're not living in the community yourself you're not contributing personally to the community.²⁹

²⁶ Interview: RR1

²⁷ Interview: UF2

²⁸ Interview: RR6

²⁹ Interview: UR2

I think it's good because I think each of your areas would be different. So for example if you had a shack and you were there, you would be looking more around your shack area at what you wanted to be improved there, because remember it's a capital investment. If you had a farm you'd be viewing that in the same way, you know, how am I going to get my animals to market easily, or my goods to market, so I'll want better roads, better access, etcetera and I don't think it hurts. I think it's a, I think it's actually good... Yes definitely retain the General Manager's Roll. And also bearing in mind that most probably of the General Managers', it might only be not even fifty percent of the population that are entitled to put their name down, 'cause they, they're not interested so you're only getting those that are interested in getting things done. So I see it as a plus.³⁰

At the same time, there were mixed messages between believing in "one vote one value" and the still strong linkage between property ownership and the entitlement to franchise. In the interviews with current Mayors in the conversations on the democratic role of local government, their comments echoed the earlier debates of the MAT, that those who vote should only be those who have a real interest, and indeed the earlier debates of the colonial settlers, of no taxation without representation:

Yeh, I, I agree with the General Manager's Roll because if, if you are a ratepayer in the area you should have a vote into where you are.³¹

But why shouldn't you, you pay rates and, and, and if you pay a tax, and rates basically are a tax, if you pay a tax I believe it's a, you are entitled to voice your opinion through the ballot box.³²

In think that if I own property within any part of the municipality, within any part of Tasmania, if I own property or have an interest in that, I believe that I should probably have a vote.³³

The strongest comment from a current Mayor argued for the plural form as still equitable in the management of the community's common good:

I believe in the right of an individual whose running a business or an operation to have a vote. I use, I liken it to the stage where, if I was in a village in Greece and I had ninety five shops, and trading places in that village, and I owned them all, there's just five ordinary houses and those five people are strange or whatever, no really shouldn't say strange, but if those people have got a personal fix with the person or persons who own those ninety five buildings, effectively the entire town is surviving because of those ninety five

³⁰ Interview: RR4

³¹ Interview: RR1

³² Interview: RR2

³³ Interview: RR5

businesses. Why should those ninety five people not have a, why shouldn't they have a vote apiece, a hundred votes out of that instead of ninety five and five?³⁴

Voting remains not compulsory and this became a contentious issue between municipal councils and State Labor governments. On a number of occasions Labor has attempted to introduce compulsory voting and has so far failed. It is not supported in this by the Local Government Association of Tasmania, the most commonly expressed concerns being the cost of elections and likelihood of political party factional behaviour.³⁵ The Mayor of one of the Councils with the highest turnout voted against compulsion in 2015, saying, "If you're truly looking for a democracy, there should be freedom of choice."³⁶

The issue of compulsory voting arose during interviews with Mayors without having been a direct question, indicating that the issue is being thought about. Being an issue at the last four Local Government Association of Tasmania Annual Conferences has helped to keep it alive:

I think we are more democratic here than in Afghanistan, you know, in local government, no doubt about it, and the fact then, okay, if you want to adapt to this typical Tasmanian thing and unfortunately it's going to change and I am deploring this very much, the fact that the voting is not compulsory was, because it's going to become compulsory, which I think is going to politicise the voting which I think is terrible.³⁷

The comment, "this typical Tasmanian thing" identifies non-compulsory voting as a particular local government practice that perhaps contributes to the view of local government as "non-political", because the franchise is still tied to property rather than the person. Support for a compulsory/non-compulsory position varied, yet with an acceptance of differentiated local government practices. This is arguably an emergence of the idea that if local government is non-political, this is demonstrated in the different voting practices:

Well obviously it should be compulsory voting, compulsory postal voting.³⁸

³⁴ Interview: UC1

³⁵ "Councils say no to compulsory voting", *The Examiner*, 28 July 2015

³⁶ "LGAT votes no to forced local voting", *The Mercury*, 23 July 2015. The researcher anecdotally recalls one memorable comment on compulsory voting at an LGAT AGM, where it was opposed by one small rural Mayor on the basis that his father and great uncle had fought in World Wars for the right to choose. Research correlating voting patterns at the LGAT with actual turn out and through interviews would tease these beliefs and values out further.

³⁷ Interview: RR3

³⁸ Interview: UR1

But I, I'm against compulsory voting and I think that may impact on how I feel about this issue. If in my community, I would rather, if you can't be bothered to read a pamphlet and at least find about, and put it in and send it back, then I prefer you not to vote. 'Cause don't, don't moan about it if they make decisions that you don't agree with, you know, if, that's how I see it. And I would probably, I could possibly see that happening at State and Federal level, but I think we, we could fall into a trap there. People are so disengaged with the last election. If it wasn't compulsory, I'm not sure how many people would have voted, personally, because people are sick and tired of it, but that's part of the deal. I think at Federal and State level, yes, it may be, it's, I like the system, it's compulsory.³⁹

Yes, personally I don't mind whether it's compulsory or not compulsory. What I think should happen is though that Federal, State and local government should be the same. If they're non-compulsory we should be non-compulsory. If they're compulsory, we should be compulsory. Then we're seen in a similar light but because we're different, local government's not compulsory, the others are, we're seen to be not as important. So I don't mind if it's all non-compulsory, if that's what the people want. I doubt whether that'll ever happen but then not why make us compulsory the same way as that. That would be my argument on that.⁴⁰

Other Mayors consider local government to be democratic in the sense that those who are interested do take part. The Mayors argue therefore there is a satisfaction with the non-compulsory practice at their community level:

Look, I think, and it might sound a bit strange, I think local government does have a fair democratic function. People are able to participate in that role. We were talking about now, our voting system at the present moment is a postal system which people have got the opportunity and it's not compulsory. I don't get many queries from people saying they haven't gone on to achieve to, to avail themselves of the democratic process, but I'm not saying things can't improve, there is always efficiencies and whatever. I still think that Council is too big in the amount of representatives, but it's very low on my list of criticisms of local government – the democratic process. In my twenty two years it has been very low of, my hearings of the people.⁴¹

Generally though, it would appear that there is a generational shift in the nature of franchise in Tasmania as people grow older. Those who may have once owned or managed significant amounts of property may still presume their vote has greater importance, even though plural voting no longer exists:

³⁹ Interview: RR5

⁴⁰ Interview: UR3

⁴¹ Interview: UF3

...amongst some of the older rural community. They have an assumption, a, a belief that they have the right to have more of a say, and be more vocal in this, in the way that they put their point of view across and it should, that it should be given more weight, simply because they own x amount of acres and their family have, and their family use to own all of this, sort of thing, and because of their family history. The, the acceptance that it is just one, one person one vote, is known but there is still a belief that you should give more credence to them when they're speaking to you about certain issues, because they've lived here eighty years and, and they've had family here for two hundred years and they used to own half the valley and all of that sort of thing, and that regularly comes up, but it is generally within, I would say, the seventy-plus age group that hold that belief and when you talk to the next generation you are, generally my generation, in your forties, they are a lot more realistic in their expectations of that what once voice one vote means, and it is irrelevant to how much you own or whether you are a renter.⁴²

Even though there is still a property-franchise nexus, the Mayor recognised that voters were becoming “a lot more realistic” in their expectations of how local government franchise should be exercised. The “one vote one value” practice as exercised at other tiers of government is starting to impact on how local government franchise will likely be practiced into the future.

Conclusion

With the Mayors interviewed for this research project it is perhaps too early to see a clear shift in attitudes away from those more suited to the first reform period in England. The shifts in ideas and beliefs through the dilemmas presented by changes in electoral and local government legislation, that franchise does not have to necessarily be linked to property, that local government can in fact have a political nature similar to State and Federal tiers, that voting as non-compulsory is a hangover from earlier ages, are all variable. Earlier beliefs similar to those in pre-second reform England still persist, although changes are happening slowly. The key question then is whether the slow rate of change has contributed in any way to resistance to reforms such as amalgamation. If ideas and beliefs have persisted from the first English reform period and are still expressed in Tasmania today by Mayors, it is not unreasonable to consider that this portrays a slow acceptance of change. This slow acceptance then spills over into the debates created by dilemmas such as demands for amalgamation. Older ideas of what local government means conflict with the dilemmas of effectiveness and efficiency that underpin amalgamation demands from the State. In turn, local government practices seek to find an

⁴² Interview: RR7

accommodation between the beliefs of old and new, or simply resist change for as long as possible, such as opposing compulsory voting. Chapter 11 will consider further the implications of this conclusion.

CHAPTER 10 CONCLUSION

Franchise as an idea and belief is persistent in local government. The early adoption of plural voting in Van Diemen's Land expressed a consistent linkage with property, locality and political control as outlined in Chapter 8. Recent changes in electoral and local government legislation still allow for non-compulsory and property-linked voting practices, despite universal suffrage being adopted at State and Federal levels in Tasmania.

The issue of plural voting, apart from the General Manager's Roll of which there is varied opinion amongst the Mayors interviewed, has disappeared to be replaced with debates as to whether to adopt compulsory voting as a local government practice. Compulsory voting is a State Labor government unilateral issue and has not been supported by policy changes at the LGAT when Mayors have considered motions for change, with freedom of choice being a preferred position. The belief is that those who are involved in a community through owning property, who take an active interest, are those most suited to vote and this is best supported by a non-compulsory position. There is also a curious disconnect between supporting one practice at the local level and another for the State/Federal, which indicates that Mayors still do not see local government as a "political tier", despite the fact that they act politically in the best interests of their municipality and region.

Has the way franchise was instituted contributed in any way to a resistance to reform? It was difficult to tease this out in interviews directly yet there is evidence that the right to vote based on property is still valued, no matter the support for "one vote one value". There is also evidence that the ideas and beliefs around franchise are slower to change. Hanging on to such ideas and beliefs, even on to ideas of plural voting as still legitimate, illustrates the interplay between lingering ideas and beliefs first reform period localism and representation. This chapter concludes by proposing that it is not unreasonable to consider that the slow rate of change in beliefs and ideas contributes in part to resistance to local government reforms such as amalgamation with the resultant local government practices that seek to accommodate older ideas of what local government means.

PART IV: REPRESENTATION

PART IV CONCLUSION

In Chapter 9 by reviewing the written records of local government a tradition of representation was teased out which reveals the strong linkage between property and franchise in local government practices. Observing the development of franchise in England, we find it is interlinked with ideas of property, local autonomy, locality and political control. The co-opting of the parish as a civic institution was underpinned by a property franchise. The introduction of municipal rating resulted in the practice of plural voting based on property. The right to vote was extended to non-living entities of corporations that control property.

Chapter 10 develops a case for a Tasmanian tradition through observation of the early adoption of plural voting. As a local government practice it enabled the entrenchment of property interests in municipal elections. By comparing the ideas and beliefs expressed over time since 1803 the case is again developed for Tasmanian local government representative practices having more in common with those practises found in first reform period than those of the English reforms of the 19th century. Through reviewing the written record and interviewing current Mayors, it is evident there has since been a slow rate of change in ideas and beliefs with some ideas of the early first English period still persisting in Tasmania today.

The key question then is whether this tradition of representation has contributed to the resistance to reforms such as amalgamation in Tasmania. While there has been a shift in local government practices from plural to “one vote one value” styles of franchise, older ideas of what local government means still persist. The resistance to the introduction of compulsory voting is one example of this. In arguing Tasmania’s local government representation tradition was derived from an earlier period of English local government, there is evidence that a number of Tasmania’s current Mayors still share such ideas and beliefs. This lack of acceptance at this point in time may well contribute to resistance to reforms that challenge ideas of what local government means. The final Chapter will now draw together the findings on each tradition.

CHAPTER 11: A POLITICAL HISTORY OF TASMANIAN LOCAL GOVERNMENT: SEEKING EXPLANATIONS FOR DECLINE - CONCLUSIONS

If you have a narrow, deterministic view of the past – that what happened had to happen – then your view of future possibilities is narrowed. I don't have an explicit agenda in my writing other than that I would like people to open up their imaginations about the past, and therefore, what is possible in the future.¹

...adopted with complacency, - almost without thought...²

Introduction

This thesis has been all about trying to find a way to understand a problem of why assumedly rational policy actors (Mayors in local government) behave in irrational ways (resisting local government reforms such as amalgamation through various means). It argues that analysis using institutional approaches fails to focus on the people involved, resulting in policy failure. Using instead the interpretive approach of tradition (ideas and beliefs passed on over generations) and dilemma (challenges to local government practice), and by turning the policy gaze 180 degrees onto policy actors, this approach provides a richer, denser understanding of why people behave the way they do. The result is more detailed set of considerations for policy development and implementation that can now be based both on institutions *and what people bring to them*.

The problem focused on in this thesis has been limited to local government in Tasmania and why local government people appear resistant to reform, particularly amalgamation imposed unilaterally by the State. It approached the problem by proposing, as a first cut of this area of research, three traditions drawn from historical sources on English local government. These are localism, voluntarism and representation. It proposed that these ideas and beliefs are drawn not from the

¹ Boyce, author of *Van Diemen's Land* and *1835: the founding of Melbourne and the conquest of Australia*, quoted in *Alumni News*, Issue 42 (December 2012): 11

² Anthony Trollope, *Australia*, P.D. Edwards and R.B. Joyce, eds, (St Lucia: University of Queensland Press, 1967), 537-538

second period of English local government reform, but from the first period and before. It proposes that due to a number of factors - history, geography, economy and society – the resistance to change has been due to ideas and beliefs that still persist in elected local government people today. As a first cut of this final proposition, the Mayors in Tasmania’s local government were selected for interview and their responses were recontextualised and analysed within the framework of the three traditions.

This concluding chapter will seek to integrate the findings in Parts II (localism), III (voluntarism) and IV (representation), to address briefly the strengths and weakness of the thesis and to consider both the conclusions drawn and their policy implications. It finishes by proposing future research opportunities and the highlighting the original contribution of this thesis to understanding local government in Tasmania.

Integrating the findings of Parts II (localism), III (voluntarism) and IV (representation)

Looking back over Chapters 5, 7 and 9 on English local government, it would not be inaccurate to say there is a great deal of writing on the English form of local government compared to that on Tasmania (Chapters 6, 8 and 10). This is deliberate. Too much of the research done to understand local government in Australia, let alone the small amount on Tasmania that had been written at the time this thesis was contemplated, locates the beginnings of Australian local government origins in the second reform period of England’s nineteenth century. The location of familiar institutions is not necessarily a fault, but it has given the impression, as Mackenzie commented on English local government, that it is as if “nothing was heard of this ancient doctrine of the constitution until after 1832”.³ So all that is available in an Australian, let alone Tasmanian context, are sets of institutional histories more concerned with rise and fall, of success and failure. What they fail to say is the *why* of it.⁴

³ Mackenzie, *Theories of Local Government*, 7

⁴ I’m indebted to Examiner B of this thesis who referred me to Aulich, et al in “A Fresh Look at Municipal Consolidation in Australia”, *Local Government Studies*, 40, no. 1 (2014) at 2, 13-14. Their findings illustrate the importance of actually undertaking research such as this thesis in understanding the ideas and beliefs that influence local government practice.

It is too easy to dismiss amalgamation and other policy failures as parochialism or through the claim of Tasmania's Legislative Council as being a retirement home for Tasmanian Mayors and therefore acting in the interests of local government over State government policy changes regardless.⁵ This is lazy surmise and should be challenged. It tells us nothing real about the underlying motivations of the people involved and what influenced just what they were thinking. Second-guessing and perceptions of why people have behaved as they did are not sufficient for good policy development.

Rather, to work out the *why* of it, this thesis sets out to understand local government in Tasmania in terms of the ideas and beliefs that people bought to it. The observation of events raises questions of where ideas and beliefs about Tasmania's local government are located, where they originated from. Seeking explanations for decline is not about the institutional failures of the past but an inquiry into the ideas and beliefs that have influenced behaviour. It is about standing back from the literature of institutional failure and asking whether ideas and beliefs in local government appear to be declining, and then asking, what ideas and beliefs are in fact under the glass for scrutiny?

It is clear in the findings on fieldwork and English and Tasmanian written sources, that the constructed traditions do not stand alone – each impacts on the other when dilemmas arise. Human interactions are necessarily messy, complicated and at times really difficult to shine a light on and to sort out into some manageable way.

Constructing three traditions to pull apart behaviour for examination has been a way of finding some meaning and then capacity for interpretation.

In integrating them back it is clear that in no way do any of these traditions stand alone in the context of local government either in England or Tasmania. English local government institutions were founded on ideas and beliefs of managing property in a locality. It is in having property that ideas of shared community, of locality arise, and from this, who then will lead a community and who then chooses the leader. The England from which free and convict settlers alike originated was one whose society, laws and politics was built on piled up years of ideas and beliefs, passed on over generations. Acquiring property was the basis of colonising Van

⁵ See for example, "Local Government", *The Examiner*, 14 July 1954: 2

Diemen's Land and added to this were factors of geography and economic, political and societal changes. While there is some repetition, each Part of this thesis is a deep time exploration of cross-disciplinary considered writing reaching well past the nineteenth century reform period of local government to develop the common themes of these traditions in the context of local government. These traditions are ideas and beliefs that are connected, inherited and held in common and which have informed people's practice of local government over time.

To recap, all three are interlinked with shared ideas of property, locality, political power and autonomy.

- *Localism* contains beliefs and practices associated with a sense of place, community identity and shared interests. It is about permissive authority and local autonomy.
- *Voluntarism* in the context of this thesis is about the ideas and beliefs surrounding the development of local government leadership. It considers who *occupies* public office.
- *Representation* has been perhaps the hardest to develop given that representation comes with many complex meanings. In this instance it looks at who gets to *choose* who takes public office and in this instance focuses on the development of franchise.

It is the dilemmas and the responses in local government practice that enable an integration of the findings in Parts II, III and IV. Geographical isolation tends to lead to strong demands for local autonomy, for localised responses to problems and therefore an increased belief in local autonomy. We see this in the multiplicity of local government authorities that were developed by the late 19th century in Tasmania. At the same time concerns for safety of property built up a local magistrate system drawn from the local landowners who were elected Mayors as well as creating a franchise that favoured those with the most property in controlling a locality. The reluctant taking on of local government only because it ensured control over a police force and then the struggle to maintain control over a police force until the late 1890s speaks to a strong belief in local autonomy for the protection of property. The prescriptive legislation of the early twentieth century

encouraged a strong “community of interest” focus that conflicted with demands for efficiency and effectiveness via amalgamations and Federal macro/micro-economic reforms. Labor party politics that challenge ideas and beliefs of common good and universal suffrage in turn resulted in resistance to compulsory voting at the local level. The idea of representation being tied to property conflicts and at the same time confirms localist beliefs of shared community interests. Finally, when economic slumps create significant problems for Tasmanian society and State governments argue for amalgamation as the only rational economic response, Mayors respond by creating regional networks with other Mayors arguing in part for control and representation of local communities in determining their future.

Changes in local government practices in themselves generate dilemmas. One response to demands for economic change has been to taken on a regional approach to local government development. Mayors are then placed in situations of conflict between doing what they believe is right for their community and responding to regional policy changes. In the past the desire for local autonomy in holding onto a local police force in fact impacted on the good of the community with inefficient and inadequate policing. A modern example would be outsourcing rubbish collection on a regional basis that reduces local council workforces. This in turn impacts on the good of a local community through loss of employment and populations then shift away.

Where unilateral attempts at change from the State are resisted by concerns over local autonomy and community, this is not to say local government is a story of failure to reform, but a failure on the part of the reformers to communicate and acknowledge the strength and validity of ideas and beliefs. Parts II, III and IV enable a teasing apart and separate examination of what is a conglomerate of local government ideas and beliefs. Using an interpretive approach sheds light on the persistence of ideas and beliefs.

So what can then be concluded from the research?

Conclusions and policy implications

The first conclusion from this thesis is that while the ideas and beliefs of Tasmania's local government are of an English form, they reflect the first period of English local government reform, not the second.

The responses to dilemmas in local government practices provide sufficient evidence of a set of ideas and beliefs of an English form of local government located in the period *prior* to the second reform period, given that the people who colonised Van Diemen's Land would have been heavily steeped in the ideas and beliefs of local government stretching far back into English history.

Locating an understanding of Tasmania's local government ideas and beliefs in the second reform period is just a small part of the rich development of earlier times. These were people who were familiar with parish vestries, town charters and corporations. They understood the ideas of legal rights, property, duty, patronage and individual choice. They were used to their towns and villages having a large degree of local autonomy and local law being dispensed and considered for the best good of the locality. They were familiar with the processes of having shared municipal and parliamentary representation.

There is no evidence of the second English reform period ideas making their way into the development of government practices by the Lt-Governors. What evidence there is of ideas and beliefs points to accepted practices that had existed for over five centuries "back home" – there are a number of "smoking guns" for this conclusion. These include the Magistrates' proposals for corporations (see Appendix A), the early development of local government as road trusts and corporations managed by commissioners, the request for the colony to be divided into parishes, hundreds and counties, and then the proliferation of trusts, numerous types of boards, and so on all to suit very local situations, much as happened in England before the municipal reforms in 1894 and in fact repeated in Tasmania in very short order between 1858 and 1900.

When ideas of developing local government institutions were presented they would have been intertwined with the debates over representative assembly, trial by jury and other British rights absent in the colony until some decades after 1803. It was the Lt-Governors who argued for local government but only as a means of getting the

free settlers to shoulder the costs of the penal colony with an ever-decreasing funding and demands for economies with the cessation of the Napoleonic wars and economic problems “at home” in England. When the Lt-Governors suggested local government structures they were in the form of trusts similar to the Turnpike Trusts and other institutions present prior to the second period in England. They looked favourably on corporations to manage towns through municipal rating as did the parishes and corporations of the first period of reform. It was only the lack of population and its sparse distribution affected by Van Diemen’s Land’s geography that prevented a workable system of parishes to start with. Suggestions of a municipal structure occurred in the debates in the closing decades of the nineteenth century with legislation very likely modelled on what was happening in England at that time given the close cultural and political ties. Such suggestions failed to materialise both then and later in the 20th century, which is curious given how much other English ideas prevailed in both government and society.

The second conclusion from this thesis is that what is being observed in Tasmania today is a decline in the English form of local government that was introduced on colonisation.

The development of a set of traditions was based on the considered writing of the past and the observed behaviour of the English colonisers in response to various dilemmas of geographical isolation, rule of law supplanted by military control, centralising Lt-Governors and the judicial and legal status of the island’s society as a penal colony. Observing behaviours and interviewing current practitioners indicates that the ideas and beliefs that underpinned an *English* form of local government have been transformed by gradual political, economic and social changes inside Tasmania and from without. Beliefs and ideas are slow to change. Interviewing Mayors uncovers a continuing intertwined legacy of past ideas and beliefs concerning property, importance of locality, leadership and representation. It is difficult to not conclude that what is being experienced by local government practitioners is a rate of change imposed from without that they find difficult to keep up with. At times it leads almost to policy paralysis through the constant threat of amalgamation. There is a diversion of time that could be used to think and converse about what local government could be, instead of coping with the continual outside policy demands

for various types of reform. What is also being noted is that this thesis may well be being written at a time of flux and could do with revisiting its conclusions in a longitudinal study. The English form of local government is being slowly supplanted by a Tasmanian response, which leads to the next conclusion.

The third conclusion is that the strength of ideas and beliefs underpinning an English form of local government in Tasmania are declining or transforming at varying rates across municipal areas.

The gradual changes in Tasmania's social, economic, political and environmental circumstances are likely the greatest challenges to the ideas and beliefs of local government, thus contributing to changes such as the watershed reforms of 1906-07 and 1989-1993, but the ideas and beliefs of local government appear to persist despite legislative change. On reassessing the researcher's original Honours project interviews, these pointed to the need for further research of what the ideas and beliefs of Tasmania's local government people are. The practices of local government people also pointed to a need to look at local government differently, as exploring each tradition has revealed.

Localism: "Top-down" or unilateral reforms over the twentieth century have been resisted on various grounds including "community of interest". Identity, community and place appeared to be of more importance to communities that are undergoing or recovering from the stresses of two World Wars and economic depressions that threaten the social fabric of their communities with population loss. (It is a common Tasmanian problem since settlement that people leave for work elsewhere on the mainland of Australia or overseas.) The ideas and beliefs of localism are moving from within local government boundaries to outside regional views of location, in an effort to maintain and improve the quality of life and services to communities within boundaries. Local government has shifted from how it focused on "roads, rates and rubbish" to an expanded focus on community, consultation and co-operation at a regional level. Nonetheless, Tasmanian geography remains and all it takes is a bushfire or a broken computer communications cable to remind local and State government of the effects of isolation.

Voluntarism: There is a shift away from duty and patronage towards a more professional approach to leadership in the roles of Mayors with the payment of

allowances and their new abilities under the *1993 Local Government Act* to work beyond municipal borders. This shift is transforming how Mayors and their Councils approach their roles although the shift varies between municipalities depending on the availability and quality of candidates. Mayors can now be elected without local government experience which speaks of an attempt to attract candidates less steeped in local government ideas and beliefs than would be previously and more likely to have professional abilities and qualifications. Cutting the dual role link between local government and Parliament may well shift attitudes to local government issues in the Legislative Council, although it is too early to tell. The idea of the non-political Mayor is also shifting with Mayors now overtly lobbying at State and Federal levels.

Representation: the linkage of property with voting is a persistent idea in local government. The current practice defines local government as different from State and Federal franchise. Despite the shift to “one vote one value” the idea of property as a franchise right remains. The General Manager’s Roll is the last vestige of plural voting and is still supported. Local government franchise is a clear expression of the idea of “no taxation without representation”, and in this case, representation of property, not universal, rights.

Overall, of these three traditions, it may be that while leadership can be legislated into a new form with differing roles and responsibilities, it is the combination of franchise and localism that gives a person a stake in a community, a sense of ownership such that when the life of the community is threatened, the reaction can be out of proportion and may prove the bigger stumbling block for good policy reform. Changes in ideas and beliefs have not necessarily kept pace with changes in legislation. Without then understanding what motivates a Mayor to act in response to change, policy reform can founder.

The final conclusion that can be drawn is that when the interests of the State and local government co-incide, then a case for reform can be made and not resisted.

This is not an earthshaking conclusion. It is in fact a blindingly simple statement. Yet it does beg the question why, after two very successful reform processes in 1906-

07 and 1989-1993 and the subsequent strides that were made in financial and other reforms, the State returns to policy change by unilateral fiat.

In 1906-07 the decline of Tasmania's economy and entry into Federation was financially driving the need for a more comprehensive form of local government and impacted heavily on Councils' operations. The strength of need for the structures that kept a convict-based population in check and served landed interests in doing so was largely declining at the time of debates for comprehensive municipal government. Historical and policy discussions on local government reform linked central and local problems of development with problems of resourcing and control of the island's economic, social and political institutions. In each instance, there was mutual respectful agreement that what was good for the State was also good for local communities. Where disagreement was raised, it was listened to, acknowledged and accommodated.

The values expressed in the traditions identified are more than just unwillingness to pay or some parochial resistance to change. Rather they reflect a societal foundation of conservative local government which has in the past resisted centralising reforms. The ideas and beliefs of localism, voluntarism and representation formed a "barrier to pernicious centralisation".⁶ If the values of local conservatism in the nineteenth century affected institutional development at both the local and State level, as well as any attempts at reform of local government, then the "why" has been poorly understood and stands as a viable explanation for the problems that followed after this reform period over the twentieth century.⁷

Given the close patriotic and social relationships between Britain and Tasmania, it is not too long a stretch to argue that the reforms that Britain's local government was undergoing in the latter half of the nineteenth century influenced ideas in Tasmania. At the same time concerns over the state of Tasmania's economy would have been a shared concern between those who participated in local government at the elected level and the State's government. Given the success of the 1906-08 reforms driven by shared debates between local and State government elected members, it is reasonable to assume (as the debates were in camera) the challenges (dilemmas)

⁶ Wettenhall, "Towards a Reinterpretation of Tasmania's Local Government History": 111

⁷ Wettenhall, *A Guide to Tasmanian Government Administration*, 313, 318

facing both State and local government were shared and therefore reform was achieved.

The next successful period of reform (1989-1993) was similar in its drivers in that economic, social, environmental and political changes in Tasmania's society led to shared dilemmas for State and local government practices. As Haward and Zwart identified, the success of this period of reform is marked by a "bottom-up" policy process with shared agreement between State and local government on the need for legislative, administrative and financial reforms in State and local government practices.⁸

The policy implication then is for finding shared ideas and beliefs when similar dilemmas challenge both State and local government. From that it should be possible to make a case for change that can be mutually agreed.

This has not been the case with State Labor governments pushing for compulsory voting in local government. A case for reform has not been made in terms of where the benefits lie for communities. Mayors argue it will simply mean an increased cost in funding elections and factional discord with a rise in political party-based policy demands. Events in other Councils on the mainland of Australia are cited as a possible unwanted outcome.

Neither is this the case with the current reform process which is being driven unilaterally by the current State Liberal government. The Minister shares portfolios of Treasury and Local Government and has argued for amalgamations based on financial and demographic analysis. The problems are defined by the State government and at the outset the Minister excluded local government innovation in shared services, ignoring the economic literature that argues such shared services processes take some years before returns are generated, or the evidence that amalgamation is problematic.⁹ Local government did not share in defining what the problem was and the Minister presented Mayors with four choices of financial consultants with an expectation that Councils would "top up" funding shortfalls

⁸ Haward and Zwart, "Local Government in Tasmania: reform and restructuring": 35

⁹ See Byrnes, Cannardi, Dollery, Tiley and others, listed in the Bibliography at *Select Cross-Disciplinary Papers on Local Government*. This collection of scholarship develops the arguments for and against amalgamation in an Australian context, albeit based on *institutional* economic approaches.

through local government staff diversion to deal with this latest round of reform. Again, there is policy paralysis whilst awaiting the outcomes of what may be some years of financial and capacity analysis of whether groups of councils are fit to merge or stay apart.

If reforms are to succeed they need to resonate with the communities they affect. Using tradition and dilemma as a policy tool enables another way of making the case for reform of how local government is practised. It then becomes not simply a matter of Treasury financial logic but also a means of persuasion for communities to accept change, at the same time as ensuring that policy change resonates with the ideas and beliefs of the communities that are affected.

Strengths and weakness of this thesis

Chapter 4 considered a number of strengths and weaknesses in the use of an interpretive approach and these need to be borne in mind when assessing the value of this thesis in contributing to policy development and research generally. A key to overcoming such weaknesses was the employment of a number of reflexive strategies to address the researcher's background in interpreting and presenting the material under investigation.

Keeping such strategies in mind, a major strength has been that the researcher is an elected local government practitioner as well as a policy researcher and is therefore able to take advantage of opportunities to be present and listening at various meetings when other local government practitioners have debated the merits of amalgamation and other reforms. As mentioned, being an "insider" brings strength to the research process by having a greater understanding of local government through listening to the richness of actual debate compared to formal written or journalistic sources. This in turn brings a richer layer of understanding to interpretation.

It is a weakness that only Mayors were selected for interview. However this was a consequence of time and capacity on the part of the researcher and more importantly a restriction eventually imposed by the availability of historical records in finding meaningful comparisons. In answer to any concern that only half of Tasmania's Mayors were willing to be interviewed, the response is that at least those Mayors were well spread across council classifications and the island of Tasmania. As such

this thesis is a first cut and lays a foundation for further research across the Tasmanian local government spectrum.

Future research opportunities

The early research into this project raised a number of tempting rabbit holes into which to descend. Consideration of any of these would have required more time and research than this thesis permitted. As such, future research opportunities derived from this thesis presents an opportunity to more richly layer the meaning of local government in a Tasmanian context. For example:

- Interviewing different cohorts, such as all current elected members in Tasmania (as all have the opportunity to become mayors), general managers and senior staff involved in this policy area, State and Federal public sector policy providers and elected members involved with local government policy development. There could be comparing with the findings to either confirm, add to or refute the thesis findings. Given the interview technique used, it would result in thousands of hours of transcription and analysis to do all of these. Taking them as a series of cohorts provides some years of future research.
- Longitudinal research on Mayors elected without previous local government experience (as Tasmania's *Local Government Act* now allows) compared to Mayors elected with at least one term of local government experience.
- Comparison over time of voting patterns at the LGAT's General and Annual General Meetings on issues such as compulsory voting and amalgamation proposals. Given the LGAT voting system, votes can be easily aggregated using ACIR classifications thus enabling comparison of rates of change according to council type, and comparing with further interviews of the Mayors. These results could also be compared to the voting patterns of the ratepayers in the municipalities to see if there are any trends or observable patterns between local government leadership beliefs and values and the behaviour of the ratepayers.
- Investigating the problem of "non-political" politics in local government leadership would enable further investigation into the lineage of the beliefs

surrounding apolitical politicians in local government. In the Tasmanian context, the perception of the Legislative Council is as a protective barrier for local government against State government policies. During the literature review for this thesis, the researcher compiled a database of Tasmanian Parliamentarians who also have direct linkages with local government, such as being elected Mayors or Councillors, or occupied the position of Town Clerk or similar. This data could then be matched to newspaper and other sources for statements surrounding particular local government issues to elicit beliefs and match these with local and parliamentary practice.

- Applying interpretive analysis to Liberal, Labor and Green political party platforms and members as a means of understanding differences and drivers in policy prescriptions for local government and highlighting where dilemmas are likely to occur.
- Applying this analysis to the current local government reform process imposed by the State government and the responses by local councils to this process. As alluded to earlier, this is another unilateral approach by the State attempting to force councils to amalgamate through “free will” or face forced amalgamation after the next State election if the Liberal Party is re-elected. As it is a currently unfolding process there is the opportunity to predict an outcome based on this thesis’ findings and then to see what happens in the future.

Contribution of this thesis to understanding the traditions of local government in Tasmania

On a concluding note, what is the significance of this thesis to research on local government in Tasmania? Broadly speaking, an interpretive approach is a fresh means of understanding Tasmanian local government. It is the first such attempt that the researcher is aware of. The exhaustive literature searches revealed only institutional histories, dry policy documents and accounts of failure and success that failed to answer the question first posed: why was amalgamation resisted so many times in Tasmania’s local government history?

By the use of tradition and dilemma this thesis adds a layer of thick meaning to understanding why reform policy succeeds and fails. It considers the most common

element in local government - so common and everyday that it is overlooked for its significance – that of what people bring to the institutions of local government in the way of their ideas and beliefs. *By discounting that which cannot be quantified, we fail to understand the full picture of why Tasmanian local government is what it is and how it got to be what it is.* This thesis makes the case for a real and present need to consider the impact of reform policies that challenge the ideas and beliefs which give local government meaning to those people who act within it.

This thesis is a first cut, laying the foundation on which further research and discussion can be built. It has relied on cross-disciplinary research and a range of resources to build up an understanding of traditions of local government in Tasmania and to find evidence for these over time. These three traditions are open for challenge, debate and refinement as is any research. If nothing else, this thesis challenges us to reconsider how we view Tasmania's local government and think about what makes people behave as they do. This research started out with a pragmatic question of trying to understand why amalgamations were resisted in Tasmania and has ended in a richer understanding of the heart of local government as locality, autonomy and representation.

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ABBREVIATIONS

ACIR	Advisory Council for Inter-government Relations
AOT	Archives Office of Tasmania
CO	Colonial Office, UK
CSO	Colonial Secretary's Office
DPAC	Department of Premier and Cabinet
HRA	Historical Records of Australia
JPPP	Journals and Printed Papers
LGAB	Local Government Advisory Board
LGB	Local Government Board
LGD	Local Government Division
MAT	Municipal Association of Tasmania
PP	Parliamentary Paper
RCLG	Royal Commission into Local Government

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Australian Local Government Association's website, <http://alga.asn.au/>

Compact of Mayors Alliance, <http://www.compactofmayors.org/>

Cradle-Coast Authority at <http://www.cradlecoast.com/>

ICLEI – Local Governments for Sustainability, www.iclei.org/index.php?id=about

Mayors for Peace, <http://www.mayorsforpeace.org/>

Northern Tasmania Development at <http://www.northerntasmania.org.au/>

Southern Tasmanian Councils Authority at <http://stca.tas.gov.au/>

Tasmania, Discover Tasmania. <http://www.discovertasmania.com.au/about/articles>

APPENDICES

APPENDIX A

TRANSCRIPT OF THE REPORT OF THE MAGISTRATES ON LIGHTING, PAVING AND WATER SUPPLY OF HOBART TOWN AND LAUNCESTON 1829

The full transcript of Lt-Governor Arthur's Order and the subsequent Report is included as an appendix as the partial quotes found in various sources convey differing interpretations, depending on the context used. A full reading offers a fuller interpretation of the ideas and beliefs in the minds of the original writers.¹ The text is tabulated so it reads as each handwritten page entry.

Page Number & Marginalia	
p. 130 George Frankland Esq. J.P. Roderic O'Connor, Esq. J.P. Josiah Spode Esq. J.P. John Bell Esq. J.P.	<p><i>Colonial Secretary's Office 23 June 1829</i></p> <p><i>Government Order</i></p> <p>The Lieutenant Governor directs that a Committee consisting of the _____ Magistrates named in the margin should be introduced into an Act for paving, lighting and conveying water into, Hobart Town and Launceston, and for assessing the Inhabitants as to defraying the expense required for those purposes.</p> <p>The Committee will observe that watching is not required to be provided for as his Majesty's Government has undertaken to defray the expense of the Police and</p>
p. 131	<p>and it is therefore the more reasonable that a moderate assessment should be made upon the inhabitant for defraying the expense of lighting, paving and conveying water into the Towns.</p> <p>It is requested that the Gentlemen forming the Committee, will take the subject into consideration, <u>at their very earliest convenience.</u></p> <p>By his Excellency's Command J. Burnett.</p>

¹ AOT, CSO 1/1/402/9069, *Government Order and Report of the Magistrates on Lighting, Paving and Water Supply of Hobart Town and Launceston*, pp. 130-143

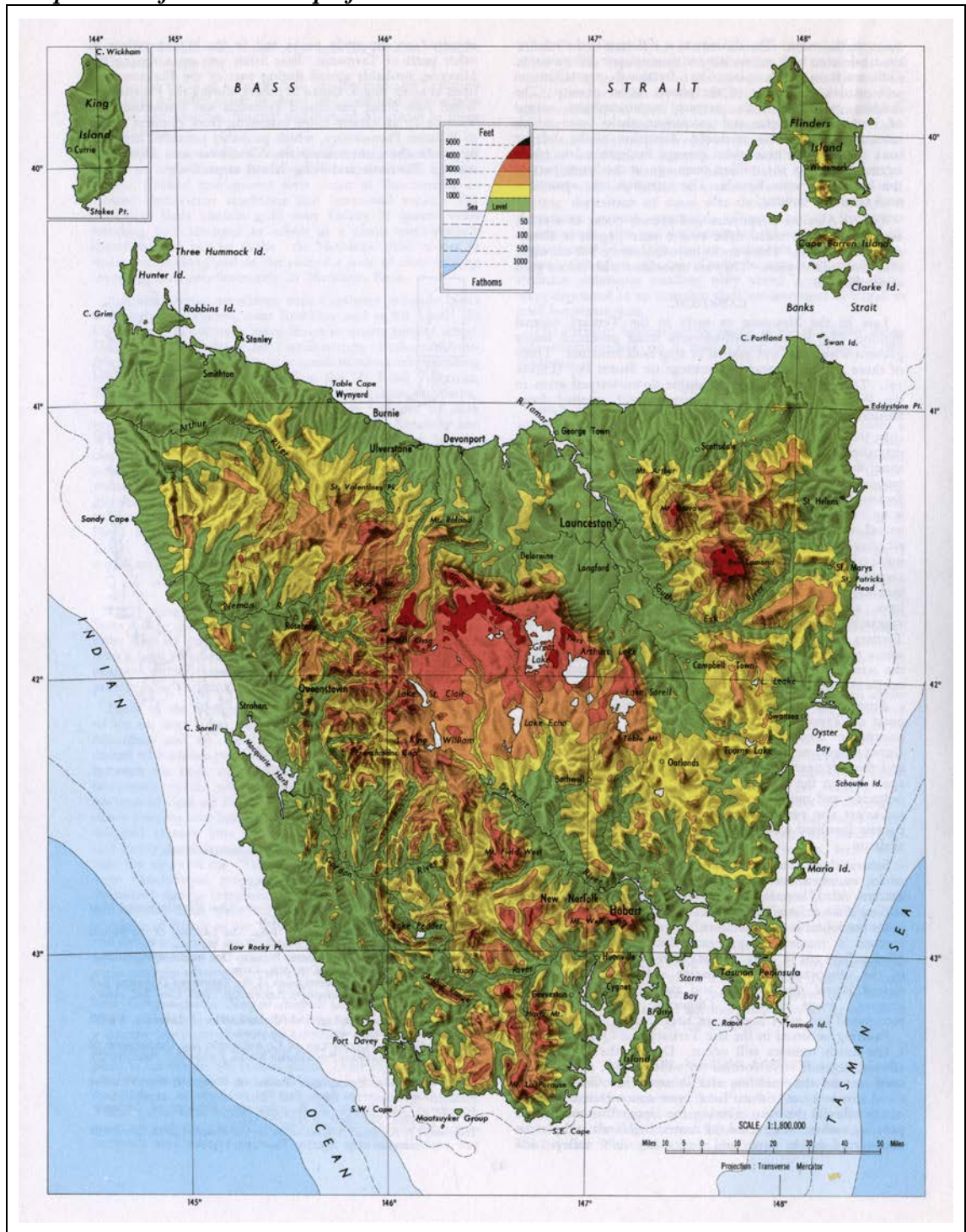
p. 133	<p><i>Report of the Magistrates on Lighting, Paving and Water Supply of Hobart Town and Launceston</i></p> <p>In obedience to the foregoing Government order the Committee hereby appointed having assembled and fully considered the subject committed to their deliberation have now the honour to report the conclusions at which they have arrived.</p> <p>1. The point towards which they first directed their attention has been the cost of the works contemplated, and why the best Estimate which they have had the means of obtaining it, appears that to furnish the footpaths with a curbstone, and to erect the necessary lamps in Hobartown would alone amount to an outlay of £6354; without taking into</p>
p. 134	<p>consideration the annual expenses of the Lighting Establishment, and omitting the question of the Water-works, the cost of which the Committee has found it impossible to estimate, but which - they are aware - would prove far more expensive than the other undertakings.</p> <p>2. The Committee on viewing these results in relation with the number of houses contained in the Town, cannot but fear that an assessment capable of redeeming so considerable an expenditure must necessarily be very high, and such being the case, it becomes a question whether the Inhabitants would not rather forego the</p>
p. 135	<p>luxuries proposed, than pay a heavy tax for their attainment. And here the Committee beg respectfully to observe that in their considerations of the whole subject they have proceeded on the principle, that as it relates firmly to the comfort and convenience of the Inhabitants in general, so it is incumbent that the measures adopted should be such that they would cheerfully accede to; and as, at the present moment, there exists no medium through which the wishes of the Public on this subject can be assessed, or ascertained, the Committee in proposing any assessment would be fearful of advising what might prove</p>
p. 136	<p>to be diametrically opposed to the true interest and desires of the parties concerned. This consideration has proposed more forcibly upon the minds of the Committee on their reflecting that the Quit-rents on Town-property already constitute a considerable tax, and that they probably will, at an early day, be for the first time levied together with considerable arrears which have been allowed to accrue and which cannot fail to prove embarrassing to a portion of the inhabitants.</p> <p>3. A careful weighing of these combined circumstances has led the Committee to form</p>
p. 137	<p>the opinion which they now have the honour to express, and</p>

	<p>which is: that the only advisable method of improving the Town by means of assessing the Inhabitants would be to erect a Corporation and vest it with the usual process of enacting bye laws and assessing its own body for the better regulation and improvement of the Town.</p> <p>4. The Committee are aware that however admirable such Municipal Institutions have been found, by the experience of Centuries, to be, in the United Kingdom – it does not necessarily follow that they would be equally beneficial or practicable in a young Colony. They have</p>
p. 138	<p>therefore carefully received the State of Society here before they have ventured to form an opinion as to the eligibility of founding such an Institution at Hobarton; and the result of their comparisons has been that this town, from its rising importance, its daily increase, and its large proportion of respectable and intelligent Inhabitants, is perfectly mature for Incorporation.</p> <p>5. The Committee therefore venture to support as a slight outline of the proposed plan, that the Corporation be composed of an annually elected Mayor, Five Aldermen, Fifteen Common Council-men</p>
p. 139	<p>and that every free inhabitant of the Town and Environs within three miles of Wellington Bridge who pays to the Crown an annual Quit-rent of Forty shillings, should be a Burgess: That in the first instance, the Mayor, Aldermen and Common Council-men be nominated by the Government, the latter body being selected, as far as practicable from the different classes of the Proprietors of whom they will form the Representatives, but that afterwards, all vacancies in the Common Council be supplied by the suffrage of the Burgesses, and the election of the Mayor and Aldermen be in future</p>
p. 140	<p>vested with the Common Council, the Aldermen being chosen from out of that body, and the Mayor from out of the body of Aldermen. It would probably be also desirable that three or four of the Public Officers of the Government should be members of the Common Council “Virtute Officii”.</p> <p>6. To this Corporation the Committee would recommend should be entrusted the entire management of the Streets, Bridges, Lights, Waterworks ...and, in short every thing connected with the improvement of the Town, as well as the direction of the Markets, and the Superintendence</p>
p. 141	<p>of weights and measures, and they feel confident that the greatest practical benefit would result from such an arrangement, and that the removal of nuisances would be more easily effected, and regulations as to uniformity of building more strictly enforced than is, or can be the case at present.</p>

	<p>7. The Committee have in further to suggest the propriety of endorsing the Corporation with one third of the Town Quit-rents, as a means of enabling it to commence the improvements which admit of no delay; and any further funds which may be found requisite can be levied by the Corporation itself by</p>
p. 142	<p>by means of assessing the Public which it represents.</p> <p>8. Those public works which can be best effected by the Chain-Gangs would, under the proposed system, be equally open to the employment of that species of labour, as the Government can always contract to supply it to the Corporation when required.</p> <p>9. With respect to Launceston the Committee do not deem that town to be ready at present for incorporation, and they would therefore recommend that a certain proportion of its Quit-rents should be annually expended by the general</p>
p. 143	<p>recommendations of its Magistracy.</p> <p style="text-align: right;">G. Frankland Roderic O Connor Josiah Spode John Bell Charles McLachlan</p>

MAPS

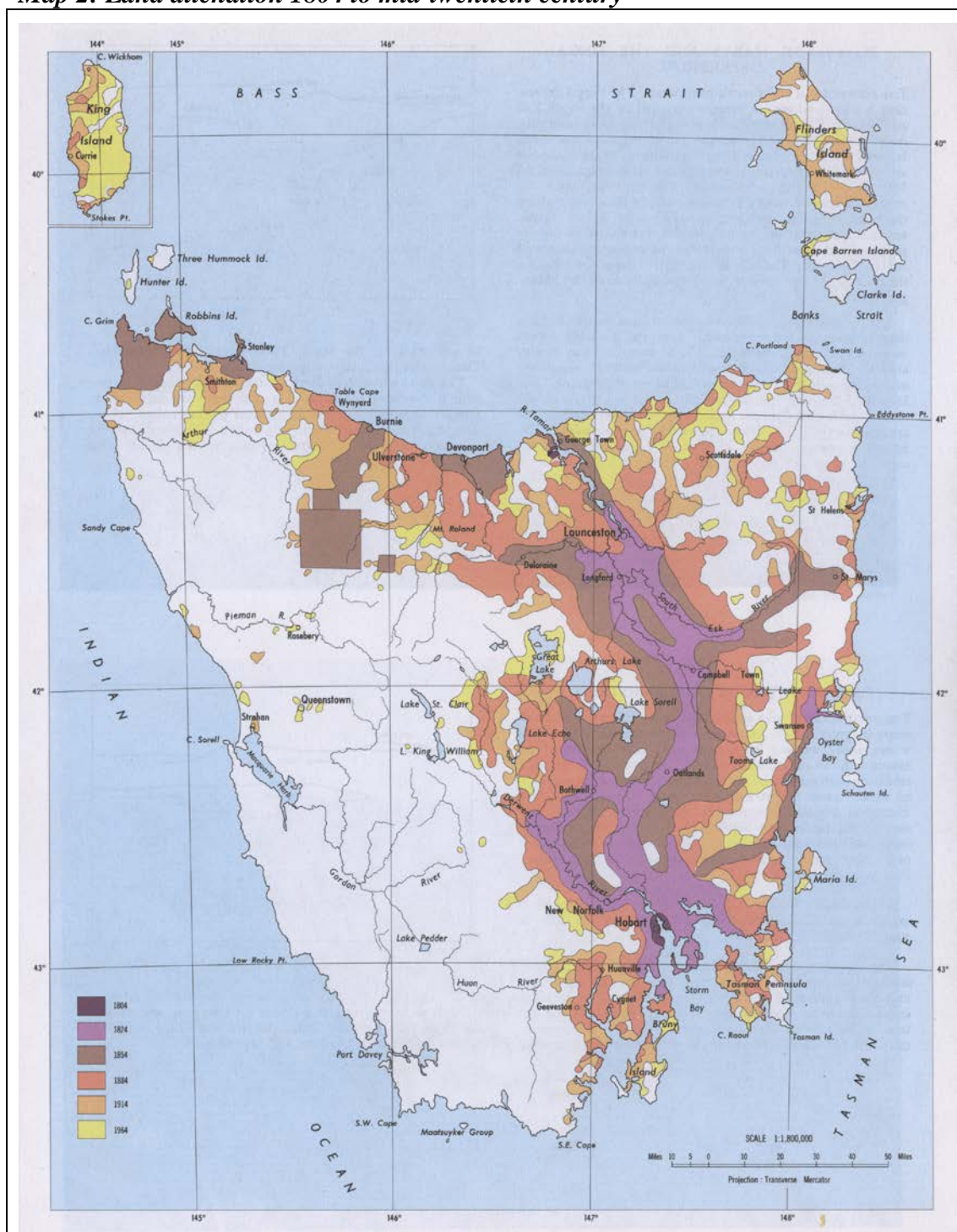
Map 1: Relief Contour Map of Tasmania



Source: *Atlas of Tasmania*¹

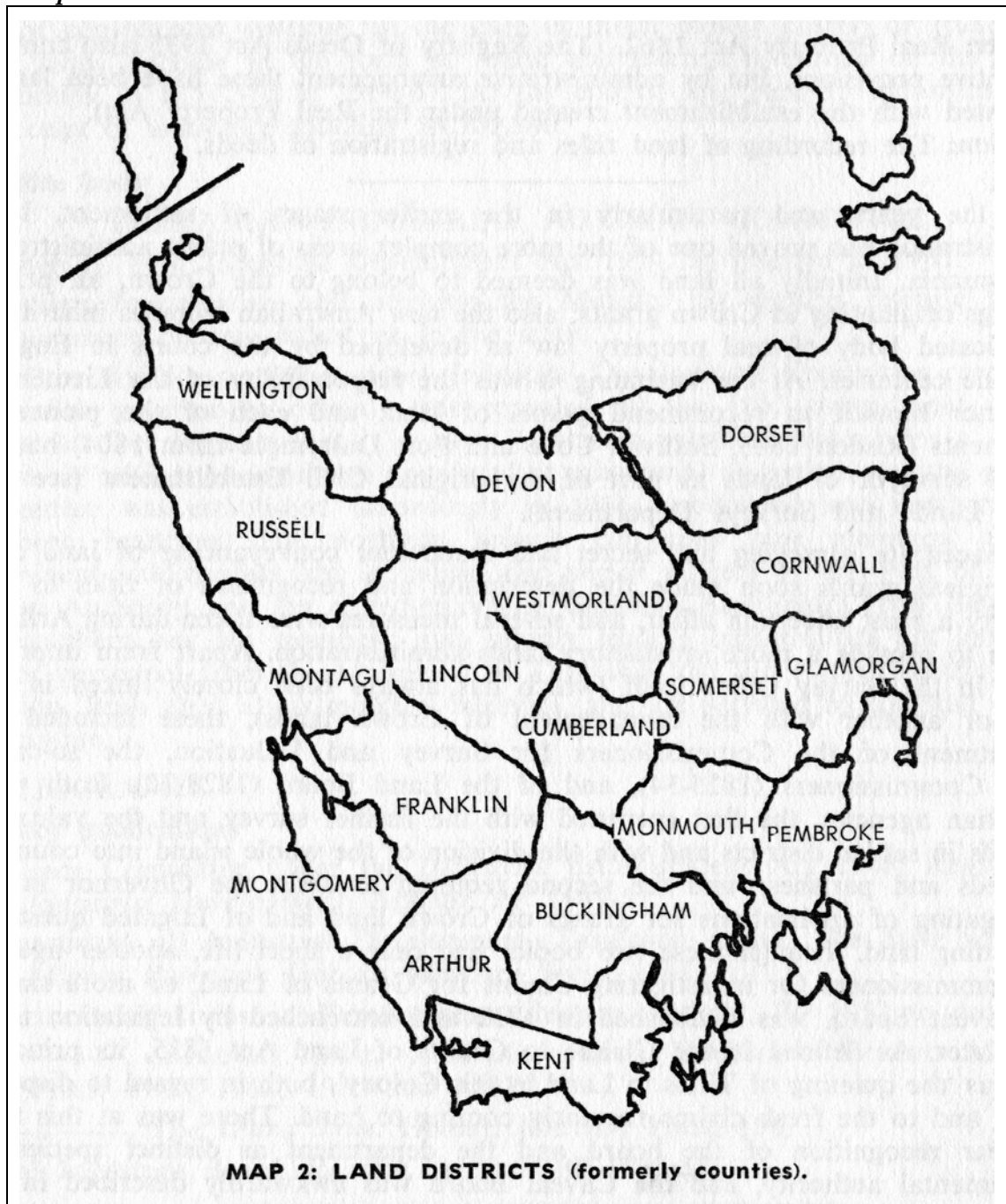
¹ J.L. Davies, ed., *Atlas of Tasmania*, (Tasmania: Lands and Surveys Department, 1965), 18

Map 2: Land alienation 1804 to mid-twentieth century



Source: *Atlas of Tasmania*²

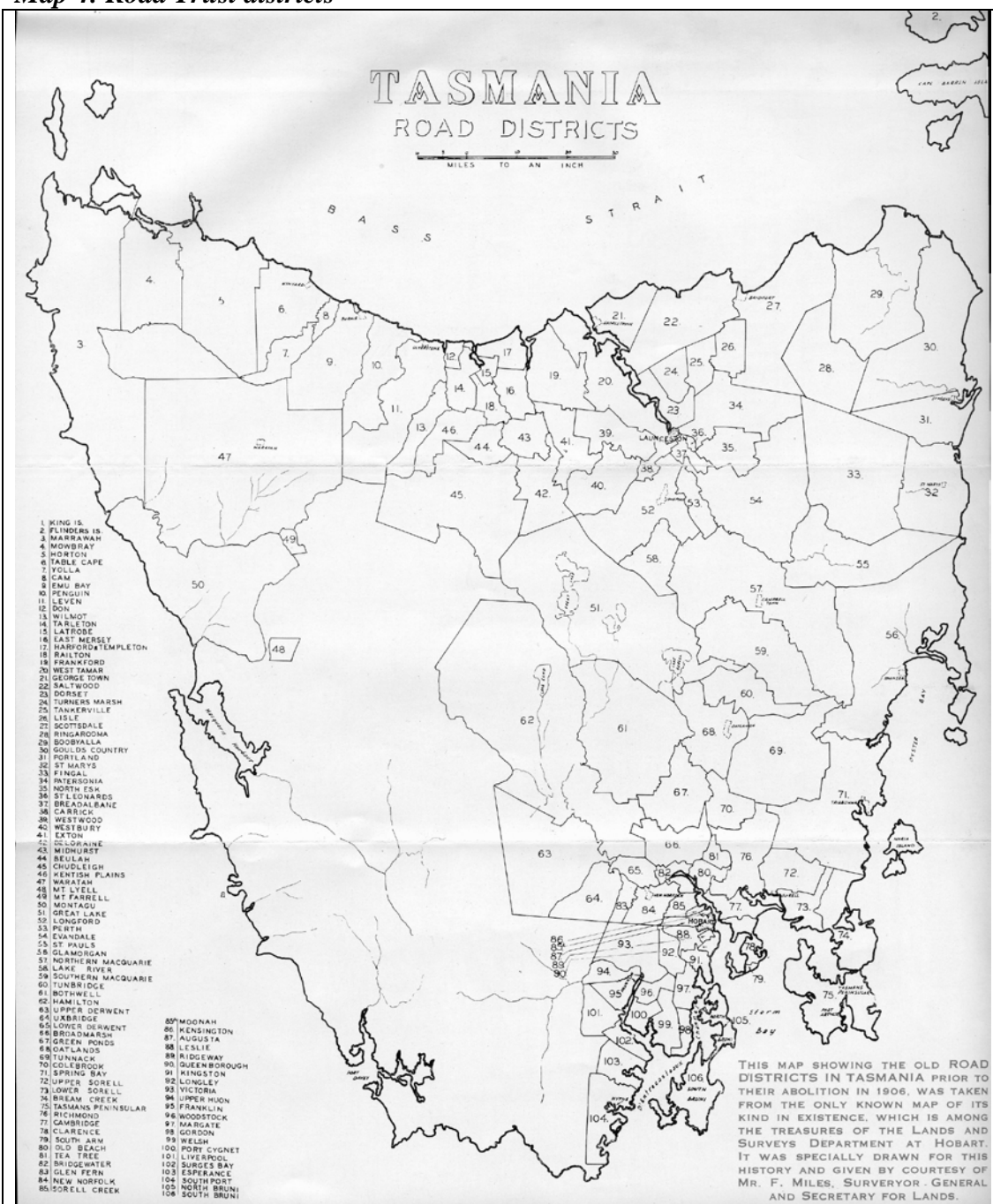
² Davies, *Atlas of Tasmania*, 42

Map 3: Land District names

Source: *A Guide to Tasmanian Government Administration*³

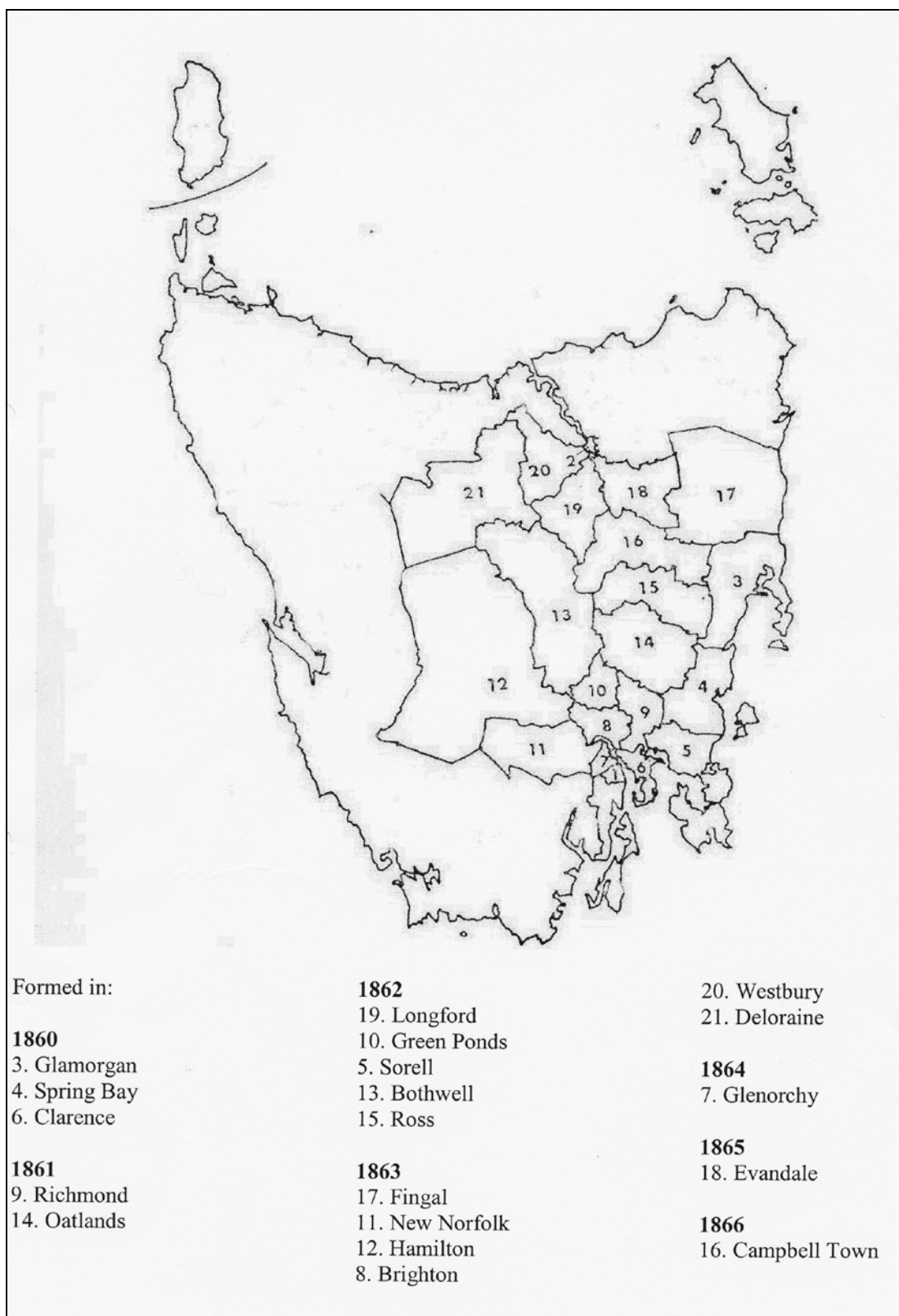
³ Wettenhall, *A Guide to Tasmanian Government Administration*, 81-82. Wettenhall comments the “divisions, though using names with local government significance in England, had no such significance in Tasmania. The county map was completed during the 1830s and its divisions have since been used only as aids in the description of land titles.”

Map 4: Road Trust districts



Source: *A History of Local Government in Tasmania*⁴

⁴ von Stieglitz, *A History of Local Government in Tasmania*, Map insert.

Map 5: Rural Municipalities 1860-1907

Source: *A Chaotic State of Affairs?*⁵⁵

⁵⁵ Rootes, *A Chaotic State of Affairs?* 438

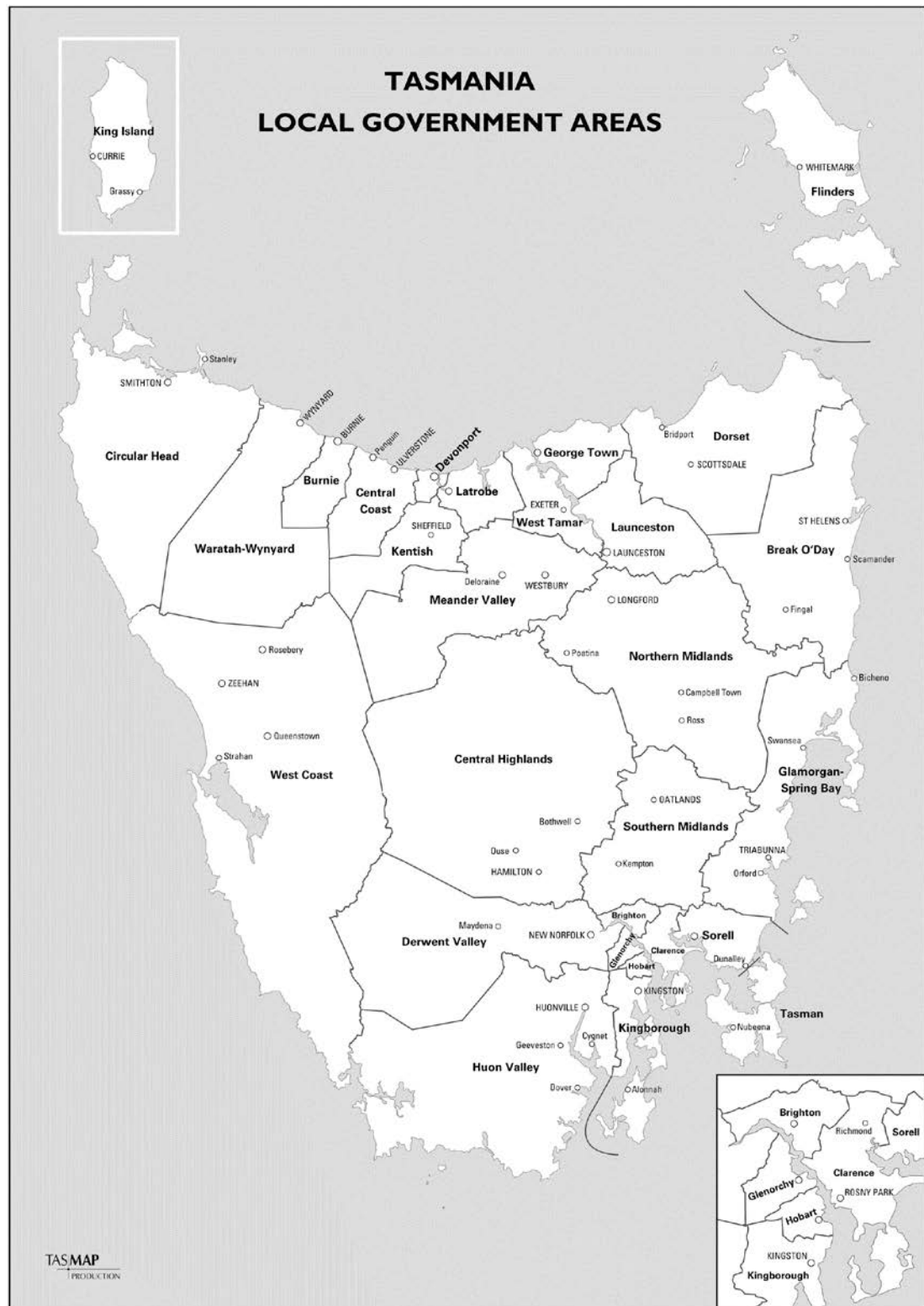
Map 6: Municipal boundaries 1907 to 1993



Source: *Atlas of Tasmania*⁶

⁶ Davies, *Atlas of Tasmania*, 98

Map 7: Municipal boundaries 1993 to present time



Source: Local Government Association of Tasmania website⁷

⁷ Local Government Association of Tasmania accessed from <http://www.lgat.tas.gov.au/page.aspx?u=221> Viewed 4 March 2016

Map 8: Current Map of Tasmania showing Towns, Cities and road system



Source: TASMAL⁸

⁸ TASMAL, base image by TASMAL (www.tasmap.tas.gov.au), © State of Tasmania. Accessed from www.tasmap.tas.gov.au/upload/static/content/Tasmania.pdf Viewed 4 March 2016